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Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

CHAPTER I—FARM CREDIT ADMINISTRATION

PART 30—FEDERAL LAND BANK OF HOUSTON

PREPAYMENT FEES COLLECTED FROM THE FEDERAL LAND BANK OF HOUSTON BORROWERS PAYING BEFORE EXPIRATION OF THE FIVE-YEAR PERIOD; AMOUNT

Section 30.8 of Title 6, Code of Federal Regulations is revoked. [Res. Bd. Dir., January 21, 1941].

[SEAL] THE FEDERAL LAND BANK OF HOUSTON,
A. P. GRAVES,
Executive Vice President.

[F. R. Doc. 41-1961; Filed, March 17, 1941; 11:57 a. m.]

~~TITLE 6—AGRICULTURAL CREDIT~~

CHAPTER III—FARM SECURITY ADMINISTRATION

PART 376—COLLECTION [1]

Part 376 of Subchapter H in Title 6, Chapter III, of the Code of Federal Regulations is hereby amended by the addition of the following section:

§ 376.02 *Collections of rural rehabilitation loans—Regional office functions—Responsibility of the regional office.* (a) The regional director, the assistant regional director, RR, the chief of the regional Loan and Collection section, or any delegate of the regional director within the regional office is authorized, on behalf of the Government, to execute proofs of claim and other instruments required to be executed by the Government in order to establish the Government's claims or defenses in probate proceedings, proceedings under the Bankruptcy Act and other court proceedings affecting RR loans. Such authority will be exercised only after consultation with the regional attorney. (Emergency Relief Appropriation Act, fiscal year 1941, 54 Stat. 61, and Sec. Memo. 867, June 28, 1940, which extends the life of previous orders of the Secretary and makes them applicable under the Act.) [F.S.A. Inst. 760.2, Apr. 15, 1939, par. I F; added Feb. 21, 1941]

Approved: February 21, 1941.

[SEAL] C. B. BALDWIN,
Administrator.

[F. R. Doc. 41-1860; Filed, March 13, 1941; 11:07 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

CHAPTER I—COMMODITY EXCHANGE ADMINISTRATION

PART 9—SPECIAL PROVISIONS APPLICABLE TO FATS [1]

PART 10—SPECIAL PROVISIONS APPLICABLE TO OILS [2]

PART 11—SPECIAL PROVISIONS APPLICABLE TO COTTONSEED MEAL AND SOYBEAN MEAL [3]

ORDER POSTPONING THE EFFECTIVE DATE OF CERTAIN SPECIFIED SECTIONS OF THE RULES AND REGULATIONS OF THE SECRETARY OF AGRICULTURE UNDER THE COMMODITY EXCHANGE ACT, AS AMENDED

By virtue of the authority vested in the Secretary of Agriculture by the Commodity Exchange Act, as amended (7 U.S.C. and Sup., secs. 1-17a), and as further amended by the act of Congress, approved October 9, 1940 (Public Law No. 818, 76th Cong.), I, Paul H. Appleby, Acting Secretary of Agriculture, do hereby postpone from March 17, 1941, to April 15, 1941, the effective date of the following enumerated sections of Parts 9, 10, and 11, Chapter I, Title 17, Code of Federal Regulations, promulgated by the Secretary of Agriculture March 7, 1941:

Sections 9.10 to 9.15, inclusive, and § 9.21, of Part 9; §§ 10.10 and 10.15, inclusive, and § 10.21, of Part 10; §§11.10 to 11.15, inclusive, and § 11.21, of Part 11 [sections 910 to 915, inclusive, and section

[1] 6 F.R. 30.

[1] 6 F.R. 1334.
[2] 6 F.R. 1337.
[3] 6 F.R. 1339.

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FEDERAL REGISTER

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921, of article IX; sections 1010 to 1015, inclusive, and section 1021, of article X; sections 1110 to 1115, inclusive, and section 1121, of article XI, Rules and regulations of the Secretary of Agriculture under the Commodity Exchange Act, as amended].

Done at Washington, D. C., this 14th day of March 1941. Witness my hand and the seal of the Department of Agriculture.

PAUL H. APPLEBY,
Acting Secretary of Agriculture.

[F. R. Doc. 41-1957; Filed, March 17, 1941; 11:38 a. m.]

TITLE 24—HOUSING CREDIT

CHAPTER V—FEDERAL HOUSING ADMINISTRATION

AMENDMENT OF THE REGULATIONS EFFECTIVE JANUARY 1, 1940 ISSUED IN CONNECTION WITH PROPERTY IMPROVEMENT LOANS UNDER TITLE I OF THE NATIONAL HOUSING ACT, AS AMENDED

PART 501—CLASS 1 AND CLASS 2 PROPERTY IMPROVEMENT LOANS UNDER SECTION 2, TITLE I, NATIONAL HOUSING ACT

Section 501.8 is hereby amended by adding at the end thereof a new paragraph designated as paragraph (c) to read as follows:

§ 501.8 *Completion certificate—Statements.*[1]

* * * * *

(c) Notwithstanding the provisions of paragraph (a) of this section, the proceeds of a loan may be disbursed in escrow or into a special account to the credit of one other than the borrower. Funds so disbursed shall not be released from the escrow or special account, nor shall such obligations be reported for insurance until signed Borrower's Completion Certificate, Dealer/Contractor/Applicator Statement, and Borrower's Authorization have been obtained.

PART 502—CLASS 3 PROPERTY IMPROVEMENT LOANS UNDER SECTION 2, TITLE I OF THE NATIONAL HOUSING ACT

Section 502.9 (c) is hereby amended to read as follows:

§ 502.9 *Loan procedure.*[2]

* * * * *

(c) After obtaining the approval of the application by the Administrator and prior to disbursing the proceeds of the loan or any portion thereof to the mortgagor or to a creditor for his account, the institution shall satisfy itself that the value of the work done and materials on the site at the time of any progress payment is equal to at least 110% of such payment, plus all such progress payments theretofore made. The insured institution shall not make a disbursement or progress payment to the mortgagor or to a creditor for his account which would increase the total amount disbursed to a sum in excess of 80 per centum of the proceeds of the loan until it has been notified that the final inspection of the structure by the Administrator has been made and the work approved. Whenever it appears to the satisfaction of the insured institution, that completion of the work will be temporarily delayed due to inclement weather, non-availability of material, or other reason beyond the control of the builder, it may disburse the entire balance remaining of the loan proceeds after deducting and retaining therefrom twice the amount deemed necessary to complete the work. This retained balance shall not be disbursed until after the work has been inspected and approved by the Administrator. Notwithstanding any other provision of this Paragraph, part or all of the proceeds of the loan may at any time be disbursed into escrow or into a special account for the benefit of the mortgagor, which proceeds shall only be released therefrom at the time and under the conditions as otherwise provided in this Paragraph.

The Amendment contained herein is hereby declared to have the same force and effect as if included in and made a

[1] 4 F.R. 4986.
[2] 4 F.R. 4990.

part of each Contract of Insurance and is effective as of the date hereof.

ABNER H. FERGUSON,
Federal Housing Administrator.

MARCH 15, 1941.

[F. R. Doc. 41-1926; Filed, March 17, 1941; 9:45 a. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[Regulations 110]

SUBCHAPTER A—INCOME AND EXCESS-PROFITS TAXES

PART 33—CONSOLIDATED RETURNS OF AFFILIATED CORPORATIONS PRESCRIBED UNDER SECTION 730 (b) OF THE EXCESS-PROFITS TAX ACT OF 1940

GENERAL PROVISIONS

STATUTORY PROVISIONS

SUBCHAPTER E—EXCESS PROFITS TAX

* * * * *

SEC. 730. Consolidated Returns.

(a) *Privilege to file consolidated returns.* An affiliated group of corporations shall, subject to the provisions of this section, have the privilege of making a consolidated return for the taxable year in lieu of separate returns. The making of a consolidated return shall be upon the condition that all the corporations which have been members of the affiliated group at any time during the taxable year for which the return is made consent to all the regulations under subsection (b) prescribed prior to the last day prescribed by law for the filing of such return; and the making of a consolidated return shall be considered as such consent. In the case of a corporation which is a member of the affiliated group for a fractional part of the year the consolidated return shall include the income of such corporation for such part of the year as it is a member of the affiliated group.

(b) *Regulations.* The Commissioner, with the approval of the Secretary, shall prescribe such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the excess profits tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such tax liability.

(c) *Computation and payment of tax.* In any case in which a consolidated return is made the tax shall be determined, computed, assessed, collected, and adjusted in accordance with the regulations under subsection (b) prescribed prior to the last day prescribed by law for the filing of such return. Only one specific exemption of $5,000 provided in section 710 (b) (1) shall be allowed for the entire affiliated group of corporations.

(d) *Definition of "affiliated group".* As used in this section, an "affiliated group" means one or more chains of includible corporations connected through stock ownership with a common parent corporation which is an includible corporation if—

(1) At least 95 per centum of each class of the stock of each of the includible corporations (except the common parent corporation) is owned directly by one or more of the other includible corporations; and

(2) The common parent corporation owns directly at least 95 per centum of each class of the stock of at least one of the other includible corporations.

As used in this subsection, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends.

(e) *Definition of "includible corporation".* As used in this section, the term "includible corporation" means any corporation except—

(1) Corporations exempt from the tax imposed by this subchapter.
(2) Foreign corporations.
(3) Corporations organized under the China Trade Act, 1922.
(4) Corporations entitled to the benefits of section 251, by reason of receiving a large percentage of their income from possessions of the United States.
(5) Personal service corporations.
(6) Insurance companies subject to taxation under section 201, 204, or 207.

(f) *Includible insurance companies.* Despite the provisions of paragraph (6) of subsection (e), two or more domestic insurance companies each of which is subject to taxation under the same section of Chapter 1 shall be considered as includible corporations for the purpose of the application of subsection (d) to such insurance companies alone.

(g) *Subsidiary formed to comply with foreign law.* In the case of a domestic corporation owning or controlling, directly or indirectly, 100 per centum of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of a contiguous foreign country and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for the purpose of this subchapter as a domestic corporation.

(h) *Suspension of running of statute of limitations.* If a notice under section 272 (a) in respect of a deficiency for any taxable year is mailed to a corporation, the suspension of the running of the statute of limitations, provided in section 277, shall apply in the case of corporations with which such corporation made a consolidated return for such taxable year.

SEC. 7. Consolidated returns of insurance companies other than life or mutual. (Excess profits tax amendments of 1941.)

Section 730 (e) (6) of the Internal Revenue Code is amended to read as follows:

"(6) Insurance companies subject to taxation under section 201 or 207."

General Provisions

§ 33.0 *Introductory.* These regulations, authorized by section 730 (b) [1] of the Internal Revenue Code as added by the Second Revenue Act of 1940, are prescribed as a supplement to the excess profits tax regulations applicable generally under the Code. They are applicable to all taxable years beginning after December 31, 1939.

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[1] The report of the Committee on Finance (Rept. No. 2114, 76th Cong., 3d sess., p. 17) accompanying the "Second Revenue Act of 1940" contains the following statement:

"The regulations which the Commissioner is authorized to prescribe are such regulations as he may deem necessary in order that the tax liability of any affiliated group of corporations making a consolidated return and of each corporation in the group, both during and after the period of affiliation, may be returned, determined, computed, assessed, collected, and adjusted, in such manner as clearly to reflect the excess-profits tax liability and the various factors necessary for the determination of such liability, and in order to prevent avoidance of such tax liability in addition to the matters which, in the light of current and previous consolidated returns regulations, are expected to be covered in detail in the regulations to be issued by the Commissioner, are the extent to which and the manner in which the following items, among others, will be computed and given effect in determining the excess-profits-tax liability of an affiliated group: (a) Equity invested capital, borrowed capital, and invested capital, (b) admissible and inadmissible assets, and excluded capital, (c) net capital additions and reductions, (d) consolidated net operating losses, net operating losses incurred by members of the group in taxable years prior to that for which the consolidated return is filed, and the net operating loss deduction of members of the group in taxable years following that for which the consolidated return was filed, and (e) excess-profits net income and adjusted excess-profits net income."

The report of the Committee on Ways and Means (Rept. No. 1860, 75th Cong., 3d sess., p. 44) accompanying the revenue bill of 1938 (the pertinent provisions of which were reenacted without change in substance in the Internal Revenue Code) contains the following statement in regard to income tax consolidated returns regulations:

"Among the matters to be detailed in regulations which the Commissioner is expected to prescribe under the provisions of subsection (b) of this section are (a) the treatment of inter-company dividend distributions, (b) of definitions of the 'net income,' the 'adjusted net income,' and the 'special class net income,' of the affiliated group, and (c) the computation of the 'net operating loss,' the 'basic surtax credit,' the 'dividend carry-over,' the 'dividends paid credit,' and the 'capital gains and losses,' insofar as these several factors may pertain to the case of an affiliated group."

With respect to the corresponding income tax section of the Revenue Act of 1928, the report of the Committee on Finance (S. Rept. No. 960, 70th Cong., 1st sess., p. 15) accompanying the revenue bill of 1928 contains the following statement (a similar statement being contained also in the statement of the managers on the part of the House, accom-

The several sections of these regulations have been given numbers corresponding respectively to the section numbers of prior income tax consolidated returns regulations but, in accordance with the rules of the FEDERAL REGISTER, preceded by the Code number 33.*

*§§ 33.0 to 33.44, inclusive, issued under the authority contained in section 730 (b) of the Internal Revenue Code, added by section 201 of the Second Revenue Act of 1940 (Public, No. 801, 76th Cong., 3d sess.).

§ 33.1 *Privilege of making consolidated returns.* (a) Section 730 gives to the corporations of an affiliated group the privilege of making a consolidated excess profits tax return for the taxable year in lieu of separate returns. This privilege, however, is given upon the condition that all corporations which have been members of the affiliated group at any time during the taxable year for which the return is made consent to these regulations, and any amendments thereof duly prescribed prior to the last day prescribed by law for the filing of the return; and the making of the consolidated return is considered as such consent. The last day prescribed by law for the filing of the return includes the last day of the period of any extension of time granted by the Commissioner.

(b) The tax liability of the members of the affiliated group for such year will be determined in accordance with such regulations and without regard to any changes made subsequent to the last day prescribed by law for the filing of such return of the rules therein prescribed.*

§ 33.2 *Definitions*—(a) *Code.* The term "Code" means the Internal Revenue Code, as amended, and the sections of statutory law referred to in these regulations, unless otherwise stated, are sections of that Code.

(b) *Affiliated group.* The term "affiliated group" includes the common parent corporation and every other corporation for the period during which such corporation is a member of the affiliated group within the meaning of section 730. It does not include (1) any corporation which under section 730 cannot be included in a consolidated return, (2) an insurance company taxable under section 201 or 207 in the case of a consolidated return for corporations taxable under section 13, 15, or 204, (3) a corporation taxable under section 13, 14, or 204 in the case of a consolidated return for insurance companies taxable under section 201 or 207 ,(4) an insurance company taxable under section 201 in the case of a consolidated return for insurance companies taxable under section 207, or (5) an insurance company taxable under section 207 in the case of a consolidated return for insurance companies taxable under section 201.

In the case of a domestic corporation owning or controlling, directly or indirectly, 100 percent of the capital stock (exclusive of directors' qualifying shares) of a corporation organized under the laws of Canada or of Mexico and maintained solely for the purpose of complying with the laws of such country as to title and operation of property, such foreign corporation may, at the option of the domestic corporation, be treated for excess profits tax purposes as a domestic corporation. The option to treat such foreign corporation as a domestic corporation so that it may be included in a consolidated return must be exercised at the time of making the consolidated return, and cannot be exercised at any time thereafter. If the election is exercised to treat such foreign corporation as a domestic corporation, it must be included in the consolidated return of the affiliated group of which it is a member for each year thereafter for which such group makes or is required to make a consolidated return.

An affiliated group of corporations, within the meaning of section 730, is formed at the time that the common parent corporation becomes the owner directly of at least 95 percent of each class of the stock (as defined by section 730 (d)) of another corporation. A corporation becomes a member of an affiliated group at the time that one or more members of the group become the owners directly of at least 95 percent of each class of its stock. A corporation ceases to be a member of an affiliated group when the members of the group cease to own directly at least 95 percent of each class of its stock.

(c) *Consolidated return period.* The term "consolidated return period" means the first taxable year beginning after December 31, 1939, or any subsequent taxable year, for which a consolidated return is made or is required, including the period during which a subsidiary corporation is engaged in distributing its assets in liquidation.

(d) *Subsidiary.* The term "subsidiary" means a corporation (other than the common parent corporation) which is a member of the affiliated group during any part of the consolidated return period.

(e) *Tax.* The term "tax" means the excess profits tax imposed by the Excess Profits Tax Act of 1940, and includes any interest, penalty, additional amount, or addition to the tax, payable in respect thereof.

(f) *Consolidated return.* The term "consolidated return" means a consolidated excess profits tax return.

(g) *Terms defined in Internal Revenue Code, as amended.* Terms which are defined in the Code, as amended, shall, when used in these regulations, have the meaning assigned to them by the Code, as amended, unless specifically otherwise defined. (See, for example, "adjusted net income," section 13; "normal-tax net income," section 13 as amended by section 201 of the Revenue Act of 1939; "special class net income," section 14 prior to its amendment by section 201 of the Revenue Act of 1939; "net income," section 21; "gross income," section 22; "taxable year" and "fiscal year," section 48; "deficiency," section 271; and the terms defined in section 3797, particularly the terms "person," "stock," and "corporation.") *

§ 33.3 *Applicability of other provisions of law.* Any matter in the determination of which the provisions of these regulations are not applicable shall be determined in accordance with the provisions of the Code or other law applicable thereto.*

Administrative Provisions

§ 33.10 *Exercise of privilege*—(a) *When privilege must be exercised.* The privilege of making a consolidated return under these regulations for any taxable year of an affiliated group must be exercised at the time of making the return of the common parent corporation for such year. Under no circumstances can such privilege be exercised at any time thereafter. The filing of separate returns for a taxable year does not constitute an election binding upon the corporations in subsequent years. If the privilege is exercised at the time of making the return, separate returns cannot thereafter be made for such year. (See, however, § 33.18, relating to the improper inclusion in the consolidated return of the income of a corporation.)

(b) *Effect of tentative returns.* In no case will the privilege under paragraph (a) be considered as exercised at the time of making a so-called "tentative return" (made, for example, in order to obtain an extension of time for making the return required by law). However, if any such tentative return is made upon the basis of a consolidated return or a separate return, the return required by law must be made upon the same basis, unless upon the making of the return required by law (either a separate return or a consolidated return, as the case may be) the

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panying the conference report upon the bill, see H. Rept. No. 1882, 70th Cong., 1st sess., pp. 16–17):

"Among the regulations which it is expected that the Commissioner will prescribe are: (1) The extent to which gain or loss shall be recognized upon the sale by a member of the affiliated group of stock issued by any other member of the affiliated group or upon the dissolution (whether partial or complete) of a member of the group; (2) the basis of property (including property included in an inventory), acquired, during the period of affiliation, by a member of the affiliated group, including the basis of such property after such period of affiliation; (3) the extent to which and the manner in which net losses sustained by a corporation before it became a member of the group shall be deducted in the consolidated return; and the extent to which and the manner in which net losses sustained during the period for which the consolidated return is filed shall be deducted in any taxable year after the affiliation is terminated in whole or in part; (4) the extent to which and the manner in which gain or loss is to be recognized, upon the withdrawal of one or more corporations from the group, by reason of transactions occurring during the period of affiliation; and (5) that the corporation filing the consolidated return must designate one of their members as the agent for the group, in order that all notices may be mailed to the agent, deficiencies collected, refunds made, interest computed, and proceedings before the Board of Tax Appeals conducted as though the agent were the taxpayer."

payments theretofore made and to be made are adjusted in a manner satisfactory to the Commissioner.*

§ 33.11 *Consolidated returns for subsequent years*—(a) *Consolidated returns for subsequent years.* If a consolidated return is made under these regulations for any taxable year, a consolidated return must be made for each subsequent taxable year during which the affiliated group remains in existence unless (1) a corporation (other than a corporation created or organized, directly or indirectly, by a member of the group) has become a member of the group during such subsequent taxable year, or (2) one or more provisions of these regulations, which have been consented to, have been amended in a manner adversely affecting the interests of the group or any of its members, or (3) the Commissioner, prior to the time of making the return, upon application made by the common parent corporation and for good cause shown, grants permission to change.

(b) *Effect of separate returns when consolidated return required.* If the making of a consolidated return is required for any taxable year, the tax liability of the members of the affiliated group shall be computed in the same manner as if a consolidated return had been made, even though separate returns are made; amounts assessed upon the basis of separate returns shall be considered as having been assessed upon the basis of a consolidated return; and amounts paid upon the basis of separate returns shall be considered as having been paid by the common parent corporation. In such cases the making of separate returns shall not be considered as the making of a return for the purpose of computing any period of limitation or any deficiency. If a consolidated return for such taxable year is thereafter made, such return shall for the purpose of computing periods of limitation and any deficiency be considered as the return for such year.

(c) *When affiliated group remains in existence.* For the purposes of these regulations, an affiliated group shall be considered as remaining in existence if the common parent corporation remains as a common parent and at least one subsidiary remains affiliated with it, whether or not such subsidiary was a member of the group at the time the group was formed and whether or not one or more corporations have become subsidiaries or have ceased to be subsidiaries at any time after the group was formed.

(d) *When affiliated group terminates.* For the purposes of these regulations, an affiliated group shall be considered as terminated if the common parent corporation ceases to be the common parent or if there is no subsidiary affiliated with it.*

§ 33.12 *Making consolidated return and filing other forms*—(a) *Consolidated return made by common parent corporation.* A consolidated return shall be made on Form 1121 by the common parent corporation for the affiliated group. Such return shall be filed at the time and in the office of the collector of the district prescribed for the filing of a separate return by such corporation.

(b) *Authorizations and consents filed by subsidiaries.* Each subsidiary must prepare duplicate originals of Form 1122E, consenting to these regulations and authorizing the common parent corporation to make a consolidated return on its behalf for the taxable year and authorizing the common parent (or, in the event of its failure, the Commissioner or the collector) to make a consolidated return on its behalf (as long as it remains a member of the affiliated group), for each year thereafter for which, under § 33.11 (a), the making of a consolidated return is required. One of such forms as prepared by each subsidiary shall be attached to the consolidated return, as a part thereof; and the other shall be filed, at or before the time the consolidated return is filed, in the office of the collector for the district prescribed for the filing of a separate return by such subsidiary. No such consent can be withdrawn or revoked at any time after the consolidated return is filed.

(c) *Affiliations schedule filed by common parent corporation.* The common parent corporation shall prepare Form 851E (Affiliations Schedule), which shall be attached to the consolidated return, as a part thereof.

(d) *Persons qualified to swear to returns and forms.* Each return or form required to be made or prepared by a corporation must be sworn to by the persons authorized under section 52 to swear to returns of separate corporations. In cases where receivers or trustees in bankruptcy are operating the property or business of corporations, each return or form required to be made or prepared by such corporation must be executed by the receiver or trustee, as the case may be, pursuant to an order or instructions of the court, and be accompanied by a copy of such order or instructions.

(e) *Signatures in case subsidiary has left affiliated group.* Since Form 1122E is required even though, during the taxable year of the common parent corporation, the subsidiary (because of a dissolution or sale of stock, or otherwise) has ceased to be a member of the affiliated group, it may be advisable for the common parent to obtain the proper signatures to the form prior to the time the subsidiary ceases to be a member of the group.*

§ 33.13 *Change in affiliated group during taxable year*[2]—(a) *General Rule.* Except as hereinafter provided, a consolidated return must include the income of the common parent corporation and of each subsidiary for the entire taxable year of the affiliated group.

[2] This section has no bearing upon the question whether a consolidated return may or must be made, but relates only to the effect of changes in the affiliated group during the taxable year.

(b) *Formation of affiliated group after beginning of year.* If an affiliated group is formed after the beginning of the taxable year of the corporation which becomes the common parent corporation, the consolidated return must include the income of the common parent for its entire taxable year (excluding any portion of such year during which its income is included in the consolidated return of another affiliated group) and the income of each subsidiary from the time it became a member of the affiliated group.

(c) *Complete termination of affiliated group prior to close of taxable year.* If an affiliated group is terminated prior to the close of the taxable year of the group, the consolidated return must include the income of the common parent corporation for its entire taxable year (excluding any portion of such year during which its income is included in the consolidated return of another affiliated group) and of each subsidiary for the period prior to the termination. (See § 33.11 (c) and (d) in determining whether the group has terminated.)

(d) *Addition to affiliated group of a subsidiary during year.* If a corporation becomes a member of the affiliated group during the taxable year of the group, the consolidated return must include its income from the time when it became a member of the group.

(e) *Elimination from affiliated group of a subsidiary during year.* If a subsidiary ceases to be a member of the affiliated group during the taxable year of the group, the consolidated return must include its income for the period during which it was a member of the group.

(f) *Period of 30 days or less may be disregarded.* A subsidiary may at its option be considered as having been a member of the affiliated group during the entire taxable year of the group (or during the entire period of the existence of the subsidiary, whichever is shorter) if the period during which it was not a member of such group does not exceed 30 days. If a corporation has been a member of the affiliated group for a period of less than 31 days during the taxable year of the group, it may at its option be considered as not having been a member of the group during the taxable year. An option under this paragraph must be exercised at or before the time when the consolidated return is made.

(g) *Separate returns for periods not included in consolidated return.* If a corporation, during its taxable year (determined without regard to the affiliation), becomes a member of an affiliated group, its income for the portion of such taxable year not included in the consolidated return of such group must be included in a separate return (or, if a member of another affiliated group which makes a consolidated return for such period, then in such consolidated return). If a corporation ceases to be a member of the affiliated group during the taxable year of the group, its income

for the period after the time when it ceased to be a member of the group must be included in a separate return (or, if it becomes a member of another affiliated group which makes a consolidated return for such period, then in such consolidated return).

(h) *Time for making separate returns for periods not included in consolidated return.* If a corporation, during its taxable year (determined without regard to the affiliation), becomes a member of an affiliated group, the separate return required for the portion of such taxable year during which it was not a member of the group must be made on or before the 15th day of the third month following the close of its taxable year (determined without regard to affiliation). For example, Corporation P, reporting its income on a calendar year basis, acquires on January 1, 1941, all the stock of Corporation S, which reports its income on a fiscal year basis ending March 31. P and S elect to make a consolidated return for the calendar year 1941. The separate return of S for the taxable period April 1, 1940, to December 31, 1940, should be made on or before June 15, 1941.*

§ 33.14 *Accounting period of an affiliatel group.* The taxable year of an affiliated group which makes a consolidated excess profits tax return shall be the same as the taxable year of the common parent corporation; and, upon having elected to file consolidated returns, each subsidiary corporation shall, not later than the close of the first consolidated excess profits tax taxable year ending thereafter, adopt an annual accounting period, fiscal year or calendar year as the case may be, in conformity with that of the common parent.

If a change of accounting period is made by a subsidiary in order to conform with that of the common parent and if the requirements of § 19.46–1, Regulations 103, relating to notice of change, can not otherwise be complied with, such notice shall be furnished at or before the time of filing the consolidated return.

With respect to computations for years involved in the change to the consolidated basis, see § 33.32.*

§ 33.15 *Liability for tax*—(a) *Several liability of members of affiliated group.* Except as provided in paragraphs (b) and (c), the common parent corporation and each subsidiary, a member of the affiliated group during any part of a consolidated return period, shall be severally liable for the tax (including any deficiency in respect thereof) computed upon the consolidated adjusted excess profits net income of the group.

(b) *Liability of a corporation in bankruptcy or receivership.* If, at the time of filing a consolidated return, one or more, but not all, of the members of the affiliated group are in bankruptcy under the laws of the United States or in receivership in any court of the United States or of any State, Territory, or the District of Columbia, then the liability under paragraph (a) of each such member of the group with respect to the period covered by such return shall not exceed such portion of the consolidated tax liability for such period as the several corporations included in the consolidated return may, subject to the approval of the Commissioner, agree upon, or, in the absence of such an agreement, an amount equal to its liability for such year computed as if a separate return had been filed.

(c) *Liability of subsidiary after withdrawal.* If a subsidiary has ceased to be a member of the affiliated group, its liability under paragraph (a) shall remain unchanged, except that if such cessation occurred prior to the date upon which any deficiency is assessed and resulted from a bona fide sale of stock for fair value, the Commissioner may, if he believes that the assessment or collection of the balance of the deficiency will not be jeopardized, make assessment and collection of such deficiency from such former subsidiary in an amount not exceeding the portion thereof allocable to it upon the basis of its excess profits net income used in the computation of the deficiency.

(d) *Effect of intercompany agreements.* Any agreement entered into by one or more members of the affiliated group with any other members of such group or with any other person shall in no case have the effect of reducing the liability prescribed under this section.

(e) *Liability of transferee not affected.* This section shall not be considered as extinguishing or diminishing any liability, at law or in equity, of a transferee of property of a taxpayer, including any liability under any provision of law, State or Federal, relating to liabilities pursuant to corporate dissolution or transfer or distribution of assets, whether or not in connection with a merger or consolidation.*

§ 33.16 *Common parent corporation agent for subsidiaries*—(a) *Scope of agency of common parent corporation.* Except as provided in paragraphs (b) and (c), the common parent corporation shall be for all purposes, in respect of the tax for the taxable year for which a consolidated return is made or is required, the sole agent, duly authorized to act in its own name in all matters relating to such tax, for each corporation which during any part of such year was a member of the affiliated group. The corporations, other than the common parent, shall not have authority to act for or to represent themselves in any such matter. For example, all correspondence will be carried on directly with the common parent; notices of deficiencies will be mailed only to the common parent, and the mailing to the common parent shall be considered as a mailing to each such corporation; the common parent will file petitions and conduct proceedings before the Board of Tax Appeals, and any such petition shall be considered as having also been filed by each such corporation; the common parent will file claims for refund or credit; refunds will be made directly to and in the name of the common parent and will discharge any liability of the Government in respect thereof to any such corporation; and the common parent in its name will give waivers, give bonds, and execute closing agreements, offers in compromise, and all other documents, and any waiver or bond so given, or agreement, offer in compromise, or any other document so executed, shall be considered as having also been given or executed by each such corporation. Notwithstanding the provisions of this paragraph, however, any notice of deficiency, in respect of the tax for a consolidated return period, will name each corporation which was a member of the affiliated group during any part of such period, and any assessment (whether of the original tax or of a deficiency) will be made in the name of each such corporation (but a failure to include the name of any such corporation will not affect the validity of the notice of deficiency or the assessment as to the other corporations); and any notice or demand for payment, any distraint (or warrant in respect thereof), any levy (or notice in respect thereof), any notice of a lien, or any other proceeding to collect the amount of any assessment, after the assessment has been made, will name the corporation from which such collection is to be made. The provisions of this paragraph shall apply whether or not a consolidated return is made for any subsequent year, and whether or not one or more subsidiaries have become or have ceased to be members of the group at any time. Notwithstanding the provisions of this paragraph, the Commissioner may, if he deems it advisable, deal directly with any member of the group in respect of its liability, in which event such member shall have full authority to act for itself.

(b) *Effect of withdrawal of subsidiary.* For the purpose of the assertion, assessment, and collection of any deficiency, and of a credit or refund of any amount paid by a former subsidiary as a deficiency determined under § 33.15 (c), but for no other purpose, the agency of the common parent corporation in respect of any subsidiary which has ceased to be a member of the affiliated group shall be terminated upon the expiration of 30 days (or prior thereto if the Commissioner consents) from the date upon which such subsidiary files written notice with the Commissioner that it has ceased to be a member of the affiliated group and that it is terminating such agency. For example, if a subsidiary has ceased to be a member of the group (and if the 30-day period has expired) prior to the mailing of a notice of deficiency to the common parent, a separate notice of deficiency will be mailed in due course to the subsidiary in respect of its deficiency if it becomes necessary to enforce its liability.

(c) *Effect of dissolution of common parent corporation.* If the common

parent corporation contemplates dissolution, or is about to be dissolved, or if for any other reason its existence is about to terminate, it shall forthwith notify the Commissioner of such fact and designate, subject to the approval of the Commissioner, another member of the affiliated group to act as agent in its place, to the same extent and subject to the same conditions and limitations as are applicable to the common parent. If the notice thus required is not given by the common parent, the remaining members of the group may, subject to the approval of the Commissioner, designate another member of the group to act as such agent, and notice of such designation shall be given to the Commissioner. Until a notice in writing designating a new agent has been received by the Commissioner, any notice of deficiency or other communication mailed to the common parent shall be considered as having been properly mailed to the agent of the group; or, if the Commissioner has reason to believe that the existence of the common parent has terminated, he may, if he deems it advisable, deal directly with any member of the group in respect of its liability.*

§ 33.17 *Waivers*—(a) *Effect of waiver given by common parent corporation.* Any consent given by the common parent corporation (or by an agent in accordance with § 33.16 (c)) extending the time within which an assessment may be made or distraint or proceeding in court begun, in respect of the tax for a consolidated return period, shall be applicable (1) to each corporation which was a member of the affiliated group during any part of such period (whether or not any such corporation has ceased to be a member of the group), and (2) to each corporation the income of which was included in the consolidated return, or which filed Form 1122E, for such period, even though it is subsequently determined that such corporation was not a member of the group.

(b) *Acceptance of waivers from common parent corporation and alleged subsidiary.* In no case will a separate waiver be accepted from a corporation the income of which was included in the consolidated return (for example, a corporation which the Commissioner determines was not a member of the affiliated group), or which filed Form 1122E, unless a waiver is also obtained from the common parent corporation, or unless the Commissioner is dealing directly with such corporation to enforce its liability.*

§ 33.18 *Failure to comply with regulations*—(a) *Exclusion of a subsidiary from consolidated return.* If there has been a failure to include in the consolidated return the income of any subsidiary, or a failure to file any of the forms required by these regulations, notice thereof shall be given the common parent corporation by the Commissioner, and the tax liability of each member of the affiliated group shall be determined on the basis of separate returns unless such income is included or such forms are filed within the period prescribed in such notice, or any extension thereof, or unless under § 33.11 a consolidated return is required for such year.

(b) *Common parent corporation incorrectly designated in consolidated return.* If a consolidated return includes a corporation as the common parent and such corporation was not (under the provisions of section 730) the common parent, the tax liability of each corporation included in the return will be computed in the same manner as if separate returns had been made, unless, upon application, the Commissioner approves the making of a consolidated return, or unless under § 33.11 a consolidated return is required for such year.

(c) *Inclusion of one or more subsidiaries not members of affiliated group.* If a consolidated return includes a corporation as a subsidiary and such corporation was not a member of the affiliated group during the consolidated return period, the tax liability of such corporation will be determined upon the basis of a separate return (but see paragraph (a)), and the consolidated return shall be considered as including only the corporations which were members of the group during such period. If the consolidated return includes two or more corporations which are not members of the group but which constitute a separate affiliated group, the tax liability of the corporations constituting the separate group will be computed in the same manner as if separate returns had been made by such corporations, unless the Commissioner, upon application, approves the making of a consolidated return for the separate group, or unless under § 33.11 a consolidated return is required for the separate group.

(d) *Effect of authorization and consent filed pursuant to notice.* If Form 1122E is filed by any corporation, pursuant to a notice under paragraph (a), such corporation shall be considered for all purposes as having joined in the making of the consolidated return.

(e) *Allocation of payments in the event of change by one or more corporations to separate returns.* In any case in which amounts have been assessed and paid upon the basis of a consolidated return and the tax liability of one or more of the corporations included in the consolidated return is to be computed in the same manner as if separate returns had been made, the amounts so paid shall be allocated between the affiliated group composed of the corporations properly included in the consolidated return and each of the corporations the tax liability of which is to be computed on a separate basis, in such manner as the corporations included in the consolidated return may, subject to the approval of the Commissioner, agree upon, or, in the absence of an agreement, upon the basis of the excess profits net income used in the computation of the excess profits tax shown upon the consolidated return.*

Computation of tax, recognition of gain or loss, and basis

§ 33.30 *Computation of tax.* In the case of an affiliated group which makes or is required to make a consolidated excess profits tax return for any taxable year beginning after December 31, 1939, the excess profits tax liability of each corporation for the period during such year that it was a member of such group shall be computed in accordance with the provisions of section 710 upon the consolidated adjusted excess profits net income of the group (determined in accordance with the regulations in this part) except:

(a) In case of abnormalities. If the affiliated group for any taxable year is subject to the provisions of section 721 (relating to abnormalities):

(1) The tax liability of the group for the taxable year in which the whole of the abnormal income would, without regard to section 721, be includible, shall not exceed the sum of (i) the tax computed upon the consolidated adjusted excess profits net income of the group computed without the inclusion in gross income of the portion of the net abnormal income which is attributable to any other taxable year, plus (ii) the aggregate of the increase in the excess profits tax which would have resulted for each previous taxable year to which any portion of such net abnormal income is attributable, computed as if an amount equal to such portion had been included in the gross income for such previous taxable year of the corporation deriving such portion;

(2) The tax liability of the group for any future taxable year shall be the tax computed upon the consolidated adjusted excess profits net income of the group computed with the inclusion in gross income of the net abnormal income attributable to such future taxable year, but shall not exceed the sum of (i) the tax computed upon the consolidated adjusted excess profits net income of the group computed without the inclusion in excess profits net income of the portion of the net abnormal income which is attributable to such year, and (ii) the decrease in the tax for the previous taxable year in which the whole of such abnormal income would without regard to section 721 be includible, which resulted by reason of the exclusion of the whole or a part of the abnormal income from the gross income for such previous taxable year; but the amount of such decrease shall be diminished by the aggregate of the increases in the tax which have resulted for the taxable years intervening between such previous taxable year and such future taxable year because of the inclusion in gross income of the portions of such net abnormal income attributable to such intervening years. Whether or not an abnormality exists shall be determined in the light of the aggregate business and of the collective experience during the four previous tax-

able years of the several members of the group.

(b) In case of Merchant Marine contracts. If the affiliated group for any taxable year includes a corporation subject to the provisions of section 726 (relating to corporations completing contracts under the Merchant Marine Act of 1936), the tax liability of the group shall be the tax under section 710 computed on the consolidated adjusted excess profits net income or the tax computed in accordance with the provisions of section 726 (b), whichever is the lessor. The computation under section 726 (b) shall be made as if the consolidated adjusted excess profits net income and the payments made or to be made to the United States Maritime Commission were the adjusted excess profits net income of and payments made or to be made by a separate corporation.

(c) In case of profits from mining strategic metals. If the affiliated group for any taxable year includes a corporation a portion of the income of which is, pursuant to section 731, exempt from tax by reason of such corporation having engaged in the mining of strategic metals, the tax liability of the group shall be an amount which bears the same ratio to the tax computed on the consolidated adjusted excess profits net income as the portion of the consolidated adjusted excess profits net income not exempt from tax bears to the entire consolidated adjusted excess profits net income. The portion of the consolidated adjusted excess profits net income not exempt from tax shall be determined in the same manner as if the consolidated adjusted excess profits net income were the adjusted excess profits net income of a separate corporation.

With respect to the liability of the several members of the group, see § 33.15.*

§ 33.31 *Bases of tax computation*—(a) *Definitions.* In the case of an affiliated group of corporations which makes or is required to make a consolidated excess profits tax return for any taxable year, and except as otherwise provided in the regulations in this part:

(1) The consolidated net income shall be the combined net income of the several affiliated corporations—

(i) Minus any consolidated net operating loss deduction.

(ii) Plus any consolidated net short-term capital gain, and

(iii) Plus or minus, as the case may be, any consolidated net long-term capital gain or consolidated net long-term capital loss;

(2) The consolidated net short-term capital gain shall be the excess of the sum of the short-term capital gains of the several affiliated corporations over the sum of the short-term capital losses of such corporations;

(3) The consolidated net long-term capital gain shall be the excess of the sum of the long-term capital gains of the several affiliated corporations over the sum of the long-term capital losses of such corporations;

(4) The consolidated net long-term capital loss shall be the excess of the sum of the long-term capital losses of the several affiliated corporations over the sum of the long-term capital gains of such corporations;

(5) The consolidated net operating loss deduction shall be an amount equal to the consolidated net operating loss carry-over reduced by the amount, if any, by which the consolidated net income (computed with the exceptions and limitations provided in section 122 (d)) exceeds the consolidated normal-tax net income (computed without any net operating loss deduction) but shall not exceed the amount of the consolidated normal-tax net income computed without the benefit of such deduction;

(6) The consolidated net operating loss carry-over shall be the sum of:

(i) The amount of the consolidated net operating loss, if any, for the first preceding taxable year,

(ii) The amount of the consolidated net operating loss, if any, for the second preceding taxable year reduced by the excess, if any, of the consolidated net income (computed with the exceptions and limitations provided in section 122 (d)) for the first preceding taxable year over the consolidated net operating loss for the third preceding taxable year,

and, with respect to net operating losses sustained by a corporation for taxable years prior to the first taxable year in respect of which its income is included in the consolidated return:

(iii) The amount of the net operating loss, if any, sustained by such corporation for the first preceding taxable year, and

(iv) The amount of the net operating loss, if any, sustained by such corporation for the second preceding taxable year reduced by the excess, if any, of the net income of such corporation for the first preceding taxable year or, if the income of such corporation is included in the consolidated return for the first preceding taxable year, either the net income of such corporation increased by the separate net short-term and long-term capital gains of such corporation or the consolidated net income for such year (computed in either case with the exceptions and limitations provided in section 122 (d)), whichever is the lesser, over the net operating loss of such corporation for the third preceding taxable year;

(7) The consolidated net operating loss shall be an amount equal to the excess of the combined net operating losses of the several affiliated corporations having net operating losses (computed subject to the exceptions and limitations provided in section 122 (d)) over the sum of:

(i) The combined net income of the several affiliated corporations having net income (adjusted with respect to the exceptions and limitations provided in section 122 (d) in connection with the computation of net operating losses), and

(ii) The consolidated net short-term capital gain and the consolidated net long-term capital gain;

(8) The consolidated normal-tax net income shall be the consolidated adjusted net income minus the consolidated credit for dividends received;

(9) The consolidated adjusted net income shall be the consolidated net income minus the consolidated credit relating to interest on certain obligations of the United States and Government corporations;

(10) The consolidated credit for dividends received shall be an amount equal to 85 percent of the aggregate dividends, of the class with respect to which credit is allowed by section 26 (b), received by the several affiliated corporations, but not in excess of 85 percent of the consolidated adjusted net income;

(11) The consolidated credit relating to interest on certain obligations of the United States and Government corporations shall be an amount equal to the aggregate of the interest, of the class with respect to which credit is allowed by section 26 (a), received by the several affiliated corporations;

(12) The consolidated excess profits net income shall be the consolidated normal-tax net income increased or decreased, as the case may be, by the consolidated section 711(a) adjustment;

(13) The consolidated section 711 (a) adjustment shall be the net amount of the aggregate adjustments provided by section 711 (a) (1) or 711 (a) (2), as the case may be, computed and determined in the case of each affiliated corporation, except as otherwise provided in (b) of this section, in the same manner and subject to the same conditions as if a separate return were filed, but without regard to the adjustments provided for in section 711 (a) (1) (B) or 711 (a) (2) (D) on account of the excess of gains over losses from certain sales or exchanges of depreciable property and section 711 (a) (1) (F) or 711 (a) (2) (A) on account of dividends received, increased or decreased, as the case may be, by the sum of:

(i) The excess of the aggregate gains of the several corporations from sales or exchanges of property held for more than eighteen months subject to the allowance for depreciation provided in section 23 (1) over the aggregate losses of the several corporations from sales or exchanges of such property, and

(ii) The excess of the aggregate amount of the dividends received by the several corporations of the class with respect to which adjustment is provided for in section 711 (a) (1) (F) or 711 (a) (2) (A), as the case may be, over the consolidated credit for dividends received;

(14) The consolidated adjusted excess profits net income shall be the consoli-

dated excess profits net income minus the sum of:

(i) A specific exemption of $5,000.
(ii) The consolidated excess profits credit, and
(iii) The consolidated excess profits credit carry-over;

(15) The consolidated excess profits credit shall be:

(i) The consolidated excess profits credit based on invested capital, or

(ii) In the case of an affiliated group one or more of the members of which would have been entitled in a separate return to an excess profits credit based on income, and subject to the provisions of section 712 (c), either the consolidated excess profits credit based on income or the consolidated excess profits credit based on invested capital, whichever results in the lesser tax;

(16) The consolidated excess profits credit based on invested capital shall be 8 percent of the consolidated invested capital for the taxable year;

(17) The consolidated invested capital for the taxable year shall be the consolidated average invested capital for such year reduced by the consolidated inadmissible asset adjustment;

(18) The consolidated average invested capital for the taxable year shall be the sum of:

(i) The combined average invested capital for the taxable year of the several affiliated corporations computed in the case of each corporation without including any accumulated earnings and profits, and

(ii) The consolidated accumulated earnings and profits as of the beginning of such taxable year;

(19) The consolidated inadmissible asset adjustment shall be an amount which bears the same ratio to the consolidated average invested capital as the aggregate inadmissible assets of the several affiliated corporations bear to the aggregate admissible and inadmissible assets of such corporations;

(20) The consolidated accumulated earnings and profits as of the beginning of the taxable year shall be an amount equal to the excess of the combined accumulated earnings and profits as of the beginning of such year of the several affiliated corporations having accumulated earnings and profits over the combined deficit in accumulated earnings and profits as of the beginning of such year of the several affiliated corporations having such deficits;

(21) The consolidated excess profits credit based on income shall be:

(i) 95 percent of the consolidated average base period net income,
(ii) Plus 8 percent of the consolidated net capital addition, or
(iii) Minus 6 percent of the consolidated net capital reduction;

(22) The consolidated average base period net income shall be, whichever is the greater:

(i) An amount which bears the same ratio to the excess of the aggregate of the consolidated base period excess profits net income for each of the consolidated base period years over the aggregate of the consolidated base period deficits in excess profits net income for any of such years, excluding the greatest, which twelve bears to the total number of months in the consolidated base period, or

(ii) An amount which bears the same ratio to the excess of the aggregate consolidated excess profits net income for each of the taxable years in the second half of the consolidated base period over the aggregate of any consolidated deficits in excess profits net income in such second half, plus one half of the amount, if any, by which such excess in the second half of the consolidated base period exceeds such excess in the first half of such period, which twelve bears to the total number of months in the second half of the consolidated base period, but in an amount not greater than the highest consolidated excess profits net income (placed on an annual basis, when necessary) for any taxable year in the consolidated base period.

(23) For the purpose of paragraph (a) (22) (ii) the consolidated excess profits net income for any consolidated base period year ending after May 31, 1940, shall be an amount not greater than the sum of:

(i) An amount which bears the same ratio to the consolidated excess profits net income for such year as the number of months before June 1, 1940, bears to the total number of months in such taxable year, plus

(ii) An amount which bears the same ratio to the consolidated excess profits net income for the last preceding taxable year as the number of months after May 31, 1940, in the taxable year bears to the number of months in such preceding taxable year, but not in excess of the consolidated excess profits net income for such last preceding taxable year.

(iii) If the number of months in such last preceding taxable year is less than the number of months after May 31, 1940, there shall be added to the amount ascertained under (ii) an amount which bears the same ratio to the consolidated excess profits net income for the second preceding taxable year as the excess of such number of months after May 31, 1940, over the number of months in such preceding taxable year, bears to the number of months in such second preceding taxable year.

(24) The consolidated base period excess profits net income for a consolidated base period year shall be an amount equal to the combined base period excess profits net income for such year of the affiliated corporations which would have been entitled in separate returns to an excess profits credit based on income, reduced by the sum of the deficits in excess profits net income for such year, in the case of any such corporations;

(25) The consolidated base period deficit in excess profits net income for a consolidated base period year shall be an amount equal to the aggregate of the deficits for such year, in the case of the affiliated corporations which would have been entitled in separate returns to an excess profits credit based on income reduced by the combined base period excess profits net income of any such corporations for such year;

(26) The consolidated base period years shall be, as the case may be:

(i) The base period years of the common parent corporation if such common parent corporation would have been entitled in a separate return to an excess profits credit based on income, or

(ii) The four successive twelve-month periods beginning on the date in 1936 corresponding to the date on which begins the first taxable year for which a consolidated return is filed if the common parent corporation would not be entitled separately to an excess profits credit based on income;

(27) The consolidated net capital addition for the taxable year shall be the excess, divided by the number of days in the taxable year, of the aggregate of the consolidated daily capital addition for each day of the taxable year over the aggregate of the consolidated daily capital reduction for each day of the taxable year;

(28) The consolidated net capital reduction for the taxable year shall be the excess, divided by the number of days in the taxable year, of the aggregate of the consolidated daily capital reduction for each day of the taxable year over the aggregate of the consolidated daily capital addition for each day of the taxable year;

(29) The consolidated daily capital addition for any day of the taxable year shall be the combined daily capital additions of the several affiliated corporations for such day, computed without regard to the adjustment for excluded capital, reduced by the excess, if any, of the combined excluded capital of the several corporations for such day over the combined excluded capital of the several corporations for the first day following the close of the last consolidated base period year;

(30) The consolidated daily capital reduction for any day of the taxable year shall be the combined daily capital reductions of the several affiliated corporations for such day;

(31) The consolidated excess profits credit carry-over shall be the sum of:

(i) The consolidated unused excess profits credit for the first preceding taxable year,

(ii) The consolidated unused excess profits credit for the second preceding taxable year reduced by the amount, if

any, by which the consolidated excess profits net income for the first preceding taxable year exceeds the sum of (a) the consolidated excess profits credit for such first preceding taxable year plus (b) the consolidated unused excess profits credit for the third preceding taxable year,

and, with respect to the unused excess profits credit of a corporation for taxable years prior to the first taxable year in respect of which its income is included in the consolidated return—

(iii) The unused excess profits credit, if any, of such corporation for the first preceding taxable year, and

(iv) The unused excess profits credit, if any, of such corporation for the second preceding taxable year reduced by:

(*a*) The excess, if any, of the excess profits net income of such corporation for the first preceding taxable year over the sum of the excess profits credit of such corporation for the first preceding taxable year and the unused excess profits credit of such corporation for the third preceding taxable year, or

(*b*) If the income of such corporation is included in the consolidated return for the first preceding taxable year, the lesser of the amount of such excess or the excess, if any, of the consolidated excess profits net income for the first preceding taxable year over the sum of the consolidated excess profits credit for the first preceding taxable year and the unused excess profits credit of such corporation for the third preceding taxable year.

(32) The consolidated unused excess profits credit shall be the excess of the consolidated excess profits credit for any taxable year beginning after December 31, 1939, over the consolidated excess profits net income for such taxable year, computed on the basis of the excess profits credit applicable to such taxable year.

(33) The highest bracket amount of the affiliated group shall be $500,000 or the combined highest bracket amounts of the several affiliated corporations, whichever is the smaller.

(b) *Computations.* (1) The net income of the several affiliated corporations shall be computed in accordance with the provisions covering the determination of net income of separate corporations, except:

(i) There shall be eliminated unrealized profits and losses in transactions between members of the affiliated group and dividend distributions from one member of the group to another member of the group (referred to in these regulations as intercompany transactions),

(ii) No net operating loss deduction shall be taken into account, and

(iii) No capital gains or losses shall be taken into account.

Intercompany profits and losses which have been realized by the group through final transactions with persons other than members of the group, and intercompany transactions which do not affect the consolidated taxable net income, shall not be eliminated. As used in this paragraph, the term "net income" includes the case in which the allowable deductions of a member (not including any net operating loss deduction) exceed its gross income.

(2) For a taxable year for which a consolidated return is made or is required, the dividends received of the class with respect to which credit is allowed by section 26 (b), the interest received of the class with respect to which credit is allowed by section 26 (a), the short-term capital gains and losses and the long-term capital gains and losses as defined in section 117 (a), the net operating loss as defined in section 122 (a), the average invested capital for the taxable year, the accumulated earnings and profits or deficit in accumulated earnings and profits as of the beginning of the taxable year, the admissible and inadmissible assets, the base period excess profits net income, the deficit in excess profits net income for a base period year, the daily capital addition for any day of the taxable year, the daily capital reduction for any day of the taxable year, the excluded capital within the meaning of section 713 (g) (3), and the highest bracket amount shall be computed and determined in the case of each affiliated corporation in the same manner and subject to the same conditions as if a separate return were filed, except:

(i) In the computation of the dividends received, there shall be excluded all dividends received from other members of the affiliated group;

(ii) In the computation of short-term capital gains and losses and long-term capital gains and losses, there shall be eliminated any gains or losses arising in intercompany transactions;

(iii) In the computation of the net operating loss, the provisions of this section pertaining to the determination of net income shall apply;

(iv) In the computation of average invested capital (which, under this section, may be a minus amount), the following adjustments shall be made:

(*a*) There shall be excluded any accumulated earnings and profits;

(*b*) There shall be excluded from borrowed capital the amount of any outstanding indebtedness of the corporation owing to another member of the affiliated group;

(*c*) Intercompany distributions made during the taxable year shall be disregarded;

(*d*) Money or property paid in for stock, or as paid-in surplus, or as a contribution to capital, during the taxable year by one member of the group to another member of the group shall be disregarded;

(*e*) With respect to the stock of another member of the affiliated group held with a basis for determining loss upon a sale or exchange fixed, directly or indirectly, by reference to the basis of such stock in the hands of any preceding owner (not including a member of the group from which such stock was acquired during a consolidated income or excess profits tax return period), there shall be subtracted from average invested capital otherwise computed an amount equal to such basis adjusted pursuant to the provisions of section 113, except that no adjustment shall be made with respect to:

Transactions referred to in (*c*) and (*d*), and

Losses of the issuing corporation subsequent to the acquisition of such stock which losses were included in a consolidated income or excess profits tax return;

(*f*) In the case of a subsidiary the stock of which is held by another member of the affiliated group with a basis for determining loss upon a sale or exchange not fixed, either directly or indirectly, by reference to the basis of such stock in the hands of any preceding owner (not including a member of the group from which such stock was acquired during a consolidated income or excess profits tax return period), there shall be excluded as of the date on which such subsidiary became a member of the affiliated group within the meaning of section 730 (d) that portion of its average invested capital attributable to the shares of stock so held; there shall also be excluded, as of the date of any subsequent acquisition, that portion of its average invested capital attributable to shares of stock similarly acquired and held by other members of the affiliated group; no addition shall be made on account of money or property thereafter paid in for stock by any other member of the group or as paid-in surplus or a contribution to capital paid in with respect to shares of stock subject to the provisions of this paragraph; and no reduction shall be made on account of any distribution thereafter made to any other member of the group; stock of one member of the group indirectly acquired through the acquisition of stock of another member of the group shall, to the extent the stock of such other member is of the character described in this paragraph, be deemed to be of the same character; thus, if the P corporation acquires for cash all the stock of the S^1 Corporation which in turn owns all the stock of the S^2 Corporation, the consolidated average invested capital of the P–S^1–S^2 group will be the average invested capital of the P Corporation (plus its accumulated earnings and profits and any earnings and profits accumulated by S^1 and S^2 after acquisition by P) regardless of the manner in which S^1 acquired the stock of S^2;

(*g*) With respect to distributions made in a consolidated income or excess profits tax return period prior to the taxable year by one member of the group to another member of the group, the average

invested capital of the distributee shall not be increased by any amount in excess of the amount by which the average invested capital of the distributor or its earnings and profits, accumulated before March 1, 1913, were decreased;

(*h*) The average invested capital of a corporation which is a member of the affiliated group for only a part of the taxable year shall be its aggregate daily invested capital computed with the adjustments set forth in this section for each day of such taxable year during which it is a member of the group (excluding the day on which it became a member) divided by the number of days in the taxable year of the affiliated group;

(v) In the computation of accumulated earnings and profits or the deficit in accumulated earnings and profits as of the beginning of the taxable year, the following adjustments shall be made:

(*a*) In the case of a subsidiary the stock of which is held by other members of the affiliated group with a basis for determining loss upon a sale or exchange not fixed, either directly or indirectly, by reference to the basis of such stock in the hands of any preceding owner (not including a member of the group from which such stock was acquired during a consolidated income or excess profits tax return period), there shall be excluded as of the date on which such subsidiary became a member of the group within the meaning of section 730 (d) that portion of its earnings and profits or deficit in earnings and profits previously accumulated and properly allocable to the shares of stock so held; there shall be excluded as of the date of any subsequent acquisition any earnings and profits or deficit in earnings and profits previously accumulated and properly allocable to any shares of stock similarly acquired and held by another member of the group indirectly acquired through the group; and stock of one member of the acquisition of stock of another member of the group shall, to the extent the stock of such other member is of the character described in this paragraph, be deemed to be of the same character;

(*b*) There shall be excluded profits and losses unrealized by the affiliated group reflected in the opening inventory of the taxable year, whether or not a consolidated return was filed for the preceding taxable years, together with all other unrealized profits and losses reflected in transactions between members of the affiliated group in prior taxable years for which a return was made or was required on a consolidated basis, either under the Second Revenue Act of 1940 or under prior income or excess profits tax acts;

(*c*) No reduction shall be made with respect to any intercompany distributions made during the taxable year;

(*d*) With respect to distributions in stock, as defined by section 718 (c) (1), made prior to the taxable year by one member of the affiliated group to another member of the group, the accumulated earnings and profits of the distributee shall not be increased in any amount in excess of that by which the sum of the average invested capital and the accumulated earnings and profits of the distributor is decreased;

(*e*) With respect to distributions made in a prior taxable year for which a return was made or was required on a consolidated basis, either under the Second Revenue Act of 1940 or under prior income or excess profits tax acts, by one member of the group to another member of the group, the accumulated earnings and profits of the distributee shall not be increased by any amount in excess of the amount by which either the average invested capital or the earnings and profits of the distributor were decreased;

(*f*) If the invested capital of the affiliated group is computed pursuant to the provisions of paragraph (b) (iv) (*f*) proper adjustment shall be made with respect to the amount of any realizations prior to the beginning of the taxable year upon any unrealized appreciation or depreciation in assets previously reflected in consolidated average invested capital;

(*g*) In the case of a corporation which is a member of the affiliated group for only a part of the taxable year, the accumulated earnings and profits or the deficit in accumulated earnings and profits as of the beginning of the taxable year shall be an amount equal to its accumulated earnings and profits or its deficit in accumulated earnings and profits as of the beginning of the taxable year of the group or the beginning of the day following the day on which it becomes a member of the group, as the case may be, multiplied by the number of days of such year during which it is a member of the group (excluding the day on which it becomes a member) and divided by the total number of days in such years;

(vi) In the computation of admissible and inadmissible assets:

(*a*) There shall be excluded all intercompany items,

(*b*) Inventories shall be computed pursuant to the provisions of section 33.39, and

(*c*) Proper adjustment shall be made with respect to any unrealized appreciation and depreciation in assets reflected in consolidated average invested capital;

(vii) In computing base period excess profits net income or the deficit in excess profits net income for a base period year in the case of any affiliated corporation which would have been entitled in a separate return to an excess profits credit based on income:

(*a*) The base period years of such corporation shall be the same as the consolidated base period years;

(*b*) If two or more members of the affiliated group (including any component corporation of any such member as defined in section 740 (b) and (g)) were affiliated with each other during any of the base period years within the meaning of section 730, whether or not consolidated income tax returns were filed for such years, there shall be excluded intercompany profits and losses resulting from transactions between such corporations for such years to the extent that such profits and losses would otherwise be taken into account;

(*c*) The short-term capital gains realized and short-term capital losses sustained by the several affiliated corporations during any of the base period years shall be treated as the short-term capital gains or losses of the group as a single corporation, and, for the purpose of computing, in the case of the several corporations, the net short-term capital loss carry-over to the succeeding base period year, any net short-term capital loss of the group for the year computed pursuant to the provisions of this paragraph shall be allocated to the several corporations having net short-term capital losses for such year in amounts proportionate to such net losses;

(*d*) In the computation under section 713 (d) (2), relating to that portion of the base period during which the corporation was not in existence:

There shall be excluded that portion of the daily invested capital of the corporation for the first day following the close of the last consolidated base period year which was paid to it by another member of the affiliated group, and

The term "preceding taxable year" means the last consolidated base period year;

(*e*) The amount to be excluded under section 711 (b) (1) (B) on account of an excess of gains from the sale or exchange of property held for more than eighteen months subject to the allowance for depreciation provided in section 23 (1) over losses from such sales or exchanges shall be an amount which bears the same ratio to the excess of the aggregate of such gains over the aggregate of such losses of the several affiliated corporations as the excess of such gains over such losses of the particular corporation bears to the sum of such excesses of the several members of the group having such an excess;

(*f*) The amount of the adjustment under section 711 (b) (1) (F) relating to repayment of processing taxes to vendees shall be computed without regard to any repayment or credit to another member of the affiliated group;

(*g*) In the case of a corporation which is a member of the affiliated group for only a part of the taxable year, the amount to be included with respect to each base period year shall be limited to an amount which bears the same ratio to its base period excess profits net income or the deficit in excess profits net income for such year, as the case may be, as the number of days of the taxable year during which it was a member of the group (excluding the day on which it becomes a member) bears to the total number of days in the taxable year;

(viii) In computing the daily capital addition or the daily capital reduction for any day of the taxable year:

(*a*) There shall be included capital additions and reductions made after, but not before, the close of the last consolidated base period year with respect to—

Affiliated corporations which would have been entitled in a separate return to an excess profits credit based on income, and

Subsidiary corporations the stock of which was acquired by other members of the affiliated group in a transaction not involving the issuance of stock by such other members;

(*b*) There shall be included capital additions and reductions made after December 31, 1939, with respect to all other affiliated corporations;

(*c*) No adjustment shall be made with respect to excluded capital;

(*d*) No addition shall be made for money or property paid in for stock, or as paid-in surplus, or as a contribution to capital by one member of the affiliated group to another member of the group whether or not a consolidated return was filed for the year of the transaction;

(*e*) No reduction shall be made with respect to distributions made to other members of the affiliated group whether or not a consolidated return was filed for the year of the distribution;

(ix) In computing excluded capital for the purpose of section 713 (g) (3):

(*a*) No increase or decrease shall be made by reason of transactions between members of the affiliated group occurring subsequent to the close of the last consolidated base period year, whether or not a consolidated return was filed for the year of the transaction, and

(*b*) The adjusted basis of stock of any members of the group held by other members of the group shall be determined without taking into account any adjustment with respect to losses of the issuing corporation subsequent to the acquisition of such stock which losses were included in a consolidated income or excess profits tax return;

(3) In no case shall there be included in the consolidated net operating loss carry-over under paragraph (a) (6) (iii) and (iv) (relating to net operating losses sustained by a corporation in years prior to the first taxable year in respect of which its income is included in the consolidated return) an amount in excess of the net income of such corporation (computed with the exceptions and limitations provided in section 122 (d)) included in the computation of the consolidated net income for the taxable year increased by the separate net short-term and long-term capital gains of such corporation.

(4) If a portion of the consolidated net operating loss carry-over arises pursuant to the provisions of paragraph (a) (6) (iii) or (iv) (relating to losses sustained by a corporation prior to the first taxable year in respect of which its income is included in the consolidated return), the consolidated net operating loss deduction shall not be less than the amount of such portion reduced by the amount, if any, by which the net income of such corporation (computed with the exceptions and limitations provided in section 122 (d)) exceeds the normal-tax net income of such corporation (computed without any net operating loss deduction but taking into account any net long-term capital loss), or, in the case of two or more such corporations, the sum of such portions so reduced.

(5) If, in the computation of the consolidated net operating loss carry-over for the second consolidated return period in respect of which the income of a corporation is included in the consolidated returns of the group, there is involved the net operating loss separately sustained by such corporation for the second preceding taxable year together with a consolidated net operating loss for the second preceding taxable year, or if, for the second consolidated return period in respect of which the income of the two or more members of the affiliated group is included in the consolidated returns of the group, there are involved the net operating losses separately sustained by such corporations for the second preceding taxable year, no portion of the consolidated net income for the first preceding taxable year shall be taken into account more than once in giving effect to the provisions of paragraph (a) (6) (ii) and (iv) (relating to the computation of that part of the consolidated net operating loss carry-over attributable to losses of the second preceding taxable year).

(6) In no case shall there be included in the consolidated excess profits credit carry-over for any taxable year under paragraph (a) (31) (iii) and (iv) with respect to the unused excess profits credit of a corporation for years prior to the first taxable year in respect of which its income is included in the consolidated return an amount in excess of the portion thereof which could have been availed of by such corporation as an excess profits credit carry-over if a separate return had been filed for such taxable year.

(7) If, in the computation of the consolidated excess profits credit carry-over for the second consolidated return period in respect of which the income of a corporation is included in the consolidated returns of the group, there is involved the separate unused excess profits credit of such corporation for the second preceding taxable year together with a consolidated unused excess profits credit for the second preceding taxable year, or if, for the second consolidated return period in respect of which the income of two or more members of the affiliated group is included in the consolidated returns of the group, there are involved the separate unused excess profits credits of such taxable year, no portion of the excess of the consolidated excess profits net income over the consolidated excess profits credit for the first preceding taxable year shall be taken into account more than once in giving effect to the provisions of paragraph (a) (31) (ii) and (iv) (relating to the computation of that part of the consolidated excess profits credit carry-over attributable to unused excess profits credits of the second preceding taxable year).

(8) If an insurance company taxable under section 204 is included in a consolidated return with other corporations taxable under section 13 or 14 and if, in the computation of the invested capital of such company, there are included any unearned premium reserves, the portion of the consolidated excess profits credit based on invested capital which is attributable to such unearned premium reserves shall not be greater than the excess, if any, of the portion of the consolidated excess profits net income attributable to such company over the portion of the consolidated excess profits credit attributable to such company computed without the inclusion in invested capital of such reserves. The portion of the consolidated excess profits credit attributable to unearned premium reserves shall be the excess of such credit computed with the inclusion of such reserves in invested capital over such credit computed without the inclusion of such reserves. The portion of the consolidated excess profits net income attributable to such company shall be the excess of such net income computed with the inclusion of such company in the consolidated return over such net income computed without the inclusion of such company. The portion of the consolidated excess profits credit attributable to such company computed without the inclusion of unearned premium reserves shall be the excess of such credit computed with the inclusion of such company without such reserves in invested capital over such credit computed without the inclusion of such company. With respect to any amount excluded from the consolidated excess profits credit by virtue of the provisions of this paragraph, there shall be allowed as a part of the consolidated excess profits credit carry-over in subsequent taxable years an amount not in excess of the portion of the consolidated excess profits net income attributable to such company in the subsequent taxable year over the portion of the consolidated excess profits credit attributable to such company in such subsequent year computed with the inclusion of unearned premium reserves. The portion of the consolidated excess profits credit attributable to such company computed with the inclusion of unearned premium reserves shall be the excess of such credit computed with the inclusion of such company in the consolidated return over

such credit computed without the inclusion of such company.

(c) *Statements and schedules for subsidiaries.* The statement of gross income and deductions and the several schedules required by the instructions on the return must be prepared and filed by the common parent corporation in columnar form so that the details of the items of gross income, deductions, invested capital, and credits, for each member of the affiliated group may be readily audited. Such statements and schedules shall include in columnar form a reconciliation of surplus for each such corporation, together with a reconciliation of the consolidated surplus. Consolidated balance sheets as of the beginning and close of the taxable year of the group, taken from the books of the members of the group, shall accompany the consolidated return prepared in a form similar to that required for reconciliation of surplus.

(d) *Net operating loss deduction after consolidated return period.* A consolidated net operating loss sustained by an affiliated group during any consolidated return period of the group shall be used in computing the net income in the return of the common parent corporation (or in the consolidated return of another affiliated group of which such common parent becomes a member) for a taxable year subsequent to the last consolidated return period of the group in the same manner, to the same extent, upon the same conditions, and subject to the same limitations as if the group had been a single corporation (the common parent corporation) when such loss was sustained; but no net operating loss sustained during a consolidated return period of an affiliated group shall be used in computing the net income of a subsidiary (or the consolidated net income of another affiliated group of which such subsidiary becomes a member) for any taxable year subsequent to the last consolidated return period of the group. No part of any net operating loss sustained by a corporation prior to a consolidated return period of an affiliated group of which such corporation becomes a subsidiary shall be used in computing the net income of such corporation for any taxable year subsequent to the consolidated return period, but any part of such net operating loss which, except for this restriction, might be so used, shall be treated as having been sustained by the common parent corporation of the group.

(e) *Unused excess profits credit after consolidated return period.* The excess of the consolidated excess profits credit for the taxable year of an affiliated group over the consolidated excess profits net income for such year shall be used in computing the adjusted excess profits net income of the common parent corporation (or the consolidated adjusted excess profits net income of another affiliated group of which such common parent becomes a member) for a taxable year subsequent to the last consolidated return period of the group in the same manner, to the same extent, upon the same conditions, and subject to the same limitations as if the group had been a single corporation (the common parent corporation) when such excess arose; but no unused excess profits credit for a consolidated return period of an affiliated group shall be used in computing the adjusted excess profits net income of a subsidiary (or the consolidated adjusted excess profits net income of another affiliated group of which such subsidiary becomes a member) for any taxable year subsequent to the last consolidated return period of the group.

(f) *Taxable year of less than twelve months.* Any period of less than twelve months for which either a separate return or a consolidated return is filed, under the provisions of § 33.13, shall be considered as a taxable year, and the excess profits net income or the consolidated excess profits net income for such year, as the case may be, shall be placed on an annual basis pursuant to the provisions of section 711 (a) (3).*

§ 33.32 *Method of computation of income for period of less than twelve months.* If a corporation, during the taxable year of the group, becomes a member or ceases to be a member of an affiliated group which makes or is required to make a consolidated return for such year, the income of such corporation to be included in the consolidated return shall be computed on the basis of its income as shown by its books if the accounts are so kept that the income for the period during which it is a member of the group can be clearly and accurately determined. If the accounts are not so kept, the income to be included in the consolidated return shall be computed on the basis of that proportion of its income (subject to the elimination of items exempt from taxation and the addition of items not allowable as deductions in computing excess profits net income) for the full period covered by its books which the number of days for which its income is included in the consolidated return bears to the number of days in the full period covered by its books; but in the discretion of the Commissioner there may be eliminated before the proration is made items of income or deduction clearly and accurately determined to be attributable to particular periods, and, after the proration is made, such eliminated items will be added to (if items of income) or deducted from (if deductible items) the income determined by proration for the period to which such items are applicable. The credits allowable under section 13 of the Code as amended shall be given for the period to which they are properly applicable under the facts in the case.*

§ 33.33 *Gain or loss from sale of stock or bonds.* Gain or loss from the sale or other disposition (whether or not during a consolidated return period), by a corporation which during any period of time (included in a taxable year beginning after December 31, 1939) has been a member of an affiliated group which makes or is required to make a consolidated return, of any share of stock or any bond or obligation issued by another corporation which during any part of such period was a member of the same group, shall be determined, and the extent to which such gain or loss shall be recognized and shall be taken into account shall also be determined, in the same manner, to the same extent, and upon the same conditions as though such corporations had never been affiliated (see sections 111 to 115, inclusive, and section 117, and the regulations thereunder), except:

(a) In the case of a disposition (by sale, dissolution, or otherwise) during a consolidated return period to another member of the group (see §§ 33.31 and 33.37); and

(b) That the basis for determining the gain or loss, in the case of shares of stock held during any part of a consolidated return period, shall be determined in accordance with § 33.34; and

(c) As provided in §§ 33.35 and 33.36 (imposing certain limitations upon losses otherwise allowable upon sales of stock or bonds).*

§ 33.34 *Sale of stock—Basis for determining gain or loss*—(a) *Scope of section.* For the purpose of computing excess profits net income, this section prescribes the basis for determining the gain or loss upon any sale or other disposition (hereinafter referred to as "sale") by a corporation which is (or has been) a member of an affiliated group which makes (or has made) a consolidated income or excess profits tax return for the taxable year 1929 or any subsequent taxable year, of any share of stock issued by another member of such group (whether issued before or during the period that it was a member of the group and whether issued before, during, or after the taxable year 1929), and held by the selling corporation during any part of a period for which a consolidated return is made or required under these regulations.

For the basis in the case of sales which do not break the affiliation, see paragraph (b).

For the basis in the case of sales which break the affiliation and which are made within the period during which the selling corporation is a member of the affiliated group (whether or not during a consolidated return period), see paragraph (e).

For the basis in the case of sales made after the selling corporation has ceased to be a member of the affiliated group, see paragraph (d).

For the basis in the case of sales of bonds, see § 33.35.

(b) *Sales which do not break affiliation.* If, notwithstanding any such sale, the issuing corporation remains a member of the affiliated group, the basis shall be determined and adjusted in the same

manner as if the selling corporation and the issuing corporation had never been members of an affiliated group. But see § 33.38 (b).

(c) *Sales which break affiliation made while selling corporation is member of affiliated group.* If the sale is made within a period during which the selling corporation is a member of the affiliated group (whether or not during a consolidated return period), and if, as a result of such sale, the issuing corporation ceases to be a member of the group, the basis shall be determined as follows:

(1) The aggregate bases of all shares of stock of the issuing corporation held by each member of the affiliated group (exclusive of the issuing corporation) immediately prior to the sale shall be determined separately for each member of the group and adjusted in accordance with the Code, but without regard to any adjustment under the last sentence of section 113 (a) (11) with respect to losses of the issuing corporation sustained by such corporation after it became a member of the affiliated group and included in a consolidated income or excess profits tax return of the group.

(2) From the combined aggregate bases as determined in subparagraph (1) there shall be deducted the sum of:

(i) All losses of such issuing corporation sustained during taxable years for which consolidated income tax returns were made or were required (including only the taxable year 1929 and subsequent taxable years) after such corporation became a member of the affiliated group and prior to the sale of the stock to the extent that such losses could not have been availed of by such corporation as a net loss or net operating loss in computing its net income for such taxable years if it had made a separate return for each of such years,

(ii) With respect to each of such taxable years for which consolidated returns were made or were required both for income and for excess profits tax purposes, the excess, if any, of all losses of such issuing corporation for such year, properly adjusted in the computation of consolidated excess profits net income, over the amount of such losses for such year computed under (i) to the extent that such excess could not have been availed of by such corporation as a net operating loss in computing its excess profits net income for such taxable years if it had made a separate excess profits tax return for each of such years, and

(iii) With respect to each of such taxable years for which consolidated returns were made or were required for excess profits tax purposes only, all losses of such issuing corporation for such year, properly adjusted in the computation of consolidated excess profits net income, to the extent that such losses could not have been availed of by such corporation as a net operating loss in computing its excess profits net income for such taxable years if it had made a separate excess profits tax return for each of such years.

For any taxable year (whether beginning prior to January 1, 1940, or on or after such date) in which the group sustained a consolidated loss not availed of in subsequent years as a deduction under net loss or net operating loss provisions, the amount deducted under this paragraph shall be reduced by an amount equal to that proportion of such consolidated loss which the loss of the issuing corporation for the year in which such loss was sustained bears to the aggregate losses of the members of the group for such year.

(3) The sum of the aggregate bases of all shares of stock, after making the deduction under subparagraph (2), shall then be apportioned among the members of the affiliated group which held stock of the issuing corporation, by allocating to each such member that proportion of the sum of the aggregate bases so reduced which the aggregate basis of the stock in the issuing corporation held by such member bears to the sum of the aggregate bases.

(4) The aggregate basis as determined under subparagraph (3) for each member of the affiliated group shall then be equitably apportioned among the several classes of stock of the issuing corporation held by such member according to the circumstances of the case—ordinarily by allocating to each class of such stock that proportion of the aggregate basis which the basis of each class of such stock held by it at the time of the sale is to the sum of the bases of the several classes of such stock held by it.

(5) The basis of each share of stock of each class held by a member of the affiliated group shall then be determined by dividing the basis apportioned to such class under subparagraph (4) by the total number of shares of such class held by it.

(d) *Sales after selling corporation has ceased to be member of affiliated group.* If the sale is made after the selling corporation has ceased to be a member of the affiliated group, such basis shall be determined in accordance with paragraph (c), except that:

(1) The aggregate bases (under paragraph (c) (1) shall be determined for all shares of the issuing corporation held by each member of the group immediately prior to the time the selling corporation ceased to be a member of the group (rather than immediately prior to the sale);

(2) The allocations (under paragraph (c) (3)) shall be made to each member of the group which held stock of the issuing corporation immediately prior to the time the selling corporation ceased to be a member of the group (rather than to the members holding such stock at the time of the sale); and

(3) The basis of each share of stock held by the selling corporation (determined, as above, as of the time the selling corporation ceased to be a member of the group) shall then be adjusted in accordance with the Code (see, particularly, sections 111 to 115, inclusive), in order to determine the basis at the time of the sale.

(e) *Definition of "loss," "consolidated loss," and "net loss" or "net operating loss."* As used in this section the term "loss" means the excess over the gross income of the issuing corporation of the sum of its allowable deductions (not including any net loss or net operating loss deduction) plus the proportionate part properly attributable to such corporation of the credits relating to interest on certain Government obligations and dividends received allowable in computing consolidated normal-tax net income, the consolidated special class net income, or consolidated net income subject to tax; the term "consolidated loss" means the excess of the sum of the losses, separately computed, over the sum of the normal-tax net income, the special class net income, or the net income subject to tax, separately computed, of the several members of the affiliated group, determined in accordance with the provisions of the Code, or the Revenue Act, and pursuant to the provisions of consolidated returns regulations, applicable to the period; and the term "net loss" or "net operating loss" means the net loss or net operating loss, as the case may be, determined in accordance with the provisions of the Code, or the Revenue Act, and pursuant to the provisions of consolidated returns regulations, applicable to the period.*

§ 33.35 *Sale of bonds—Basis for determining gain or loss.* In the case of a sale or other disposition by a corporation, which is (or has been) a member of an affiliated group which makes (or has made) a consolidated income or excess profits tax return for the taxable year 1929 or any subsequent taxable year, of bonds or obligations issued by another member of such group (whether or not issued while it was a member of the group and whether issued before, during, or after the taxable year 1929), the basis of each bond or obligation, for determining the gain or loss upon such sale or other disposition, shall be determined in accordance with the Code (see, particularly, section 113), but the amount of any loss otherwise allowable shall be decreased by the excess (if any) of the aggregate of the deductions computed under § 33.34 (c) (2) over the sum of the aggregate bases of the stock of the issuing corporation as computed under paragraphs (c) (1) or (d), as the case may be, held by the members of the group. (See, also, § 33.40, relating to disallowance of loss upon intercompany bad debts.)*

§ 33.36 *Limitation on allowable losses on sale of stock or bonds*—(a) *General rule.* No loss shall be allowed under §§ 33.33, 33.34, or 33.35 upon the sale or other disposition of stock or bonds or obligations to the extent that such loss is attributable to (1) transfers of assets

within the affiliated group (by sale, gift, or otherwise) without consideration or at markedly fictitious values, during the period in which the corporations were affiliated (whether or not a consolidated return was made and whether before, during, or after the first taxable year beginning after December 31, 1939), or (2) a distribution during a period in which the corporations were affiliated of earnings or profits accumulated prior to the date upon which the distributing corporation became a member of the group.

(b) *Qualification of general rule.* Paragraph (a) shall not be considered as in any way limiting the operation of the provisions of the Code relating to the basis for determining gain or loss upon the sale or other disposition of property (see sections 111 to 115, inclusive), but as being in amplification of and not in substitution for such provisions; subject, however, to this qualification: that to the extent that the transfers of assets referred to in paragraph (a) are taken into account under the terms of the Code in making adjustments in the basis, such transfers will not be taken into account in denying losses under paragraph (a).*

§ 33.37 *Liquidations—Recognition of gain or loss*—(a) *During consolidated return period.* Gain or loss shall not be recognized upon a distribution during a consolidated return period, by a member of an affiliated group to another member of such group, in cancellation or redemption of all or any portion of its stock, except:

(1) Where such distribution is in complete liquidation and redemption of all of the stock (whether in one distribution or a series), falls without the provisions of section 112 (b) (6), and is the result of a bona fide termination of the business and operations of such member of the group, in which case it shall be treated as a sale of the stock, the adjustments specified in §§ 33.34 and 33.35 will be made, and § 33.36 will be applicable; and

(2) Where such a distribution without the provisions of section 112 (b) (6) is one made in cash in an amount in excess of the adjusted basis of the stock.

When the business and operations of the liquidated member of the affiliated group are continued by another member of the group, it shall not be considered a bona fide termination of the business and operations of the liquidated member. (With respect to the acquisition of its bonds by the issuing company, see § 33.41 (b).)

For the purpose of determining whether an affiliated corporation receiving property in a liquidating distribution qualifies under the provision of section 112 (b) (6) (A), the aggregate amount of the stock of the liquidated corporation owned by the several members of the affiliated group on the date of the adoption of the plan of liquidation and at all times subsequent thereto and prior to the receipt of the property in liquidation shall be considered as owned by the distributee.

(b) *After consolidated return period.* Any such distribution after a consolidated return period, whether in complete or partial liquidation, except a complete liquidation within the provisions of section 112 (b) (6), shall be treated as a sale of the stock, and the adjustments specified in §§ 33.34 and 33.35 will be made, and § 33.36 will be applicable.*

§ 33.38 *Basis of property*—(a) *General rule.* Subject to the provisions of paragraphs (b) and (c) and except as otherwise provided in § 33.34, the basis during a consolidated return period for determining the gain or loss from the sale or other disposition of property, or upon which exhaustion, wear and tear, obsolescence, amortization, and depletion are to be allowed, shall be determined and adjusted in the same manner as if the corporations were not affiliated (see sections 111 to 115, inclusive), whether such property was acquired before or during a consolidated return period. Such basis immediately after a consolidated return period (whether the affiliation has been broken or whether the privilege of making a consolidated return is not exercised) shall be the same as immediately prior to the close of such period.

(b) *Intercompany transactions.* The basis prescribed in paragraph (a) shall not be affected by reason of a transfer during a consolidated return period, other than upon liquidation as provided in paragraph (c) (whether by sale, gift, dividend, or otherwise), from a member of the affiliated group to another member of such group.

(c) *Basis after liquidation.* (1) Where property is acquired during a taxable year beginning after December 31, 1939, upon a distribution described in § 33.37 (a) in which gain or loss is recognized to the distributee, the basis of such property shall be its fair market value at date of acquisition.

(2) Where property is acquired during a taxable year beginning after December 31, 1939, upon a distribution in which gain or loss to the distributee is not recognized pursuant to the provisions of section 112 (b) (6), the basis of such property shall be the same as it would be in the hands of the transferor.

(3) Where property is acquired during a taxable year beginning after December 31, 1939, upon a distribution (not a complete liquidation within the provisions of section 112 (b) (6)) in which gain or loss to the distributee is not recognized as provided in § 33.37 (a), the basis of such property shall be the same as the basis (determined in accordance with sections 111 to 115, inclusive, and § 33.34) of the stock exchanged therefor, adjusted:

(i) For the transfer of assets within the affiliated group by the distributing corporation (by sale, gift, or otherwise) without consideration or at markedly fictitious values, during the period for which the corporations were affiliated (whether or not a consolidated return was made and whether before, during, or after the first taxable year beginning after December 31, 1939);

(ii) For distributions during a period in which the corporations were affiliated of earnings or profits accumulated prior to the date upon which the distributing corporation became a member of the group; and

(iii) For cash received in the distribution.

(d) *Basis not affected by acquisition or sale of stock.* Neither the acquisition of stock of a corporation nor its sale or other disposition shall affect the basis of the property of such corporation for determining gain or loss or upon which exhaustion, wear and tear, obsolescense, amortization, and depletion are to be allowed.*

33.39 *Inventories*—(a) *Consolidated return for first year of affiliation.* If the income of an affiliated corporation is included in a consolidated return for the period immediately following the date upon which such corporation became a member of the affiliated group, the value of its opening inventory to be used in computing the consolidated net income shall be the proper value of the closing inventory used in computing its net income for the preceding taxable year.

(b) *Consolidated return after separate return by affiliates.* If a corporation which is a member of the affiliated group for the first consolidated return period was a member of the group in the preceding taxable year, the value of its opening inventory to be used in computing the consolidated net income for the first consolidated return period shall be the proper value of the closing inventory used in computing its net income for the preceding taxable year decreased in the amount of profits or increased in the amount of losses reflected in such inventory which arose in transactions between members of the affiliated group and which have not been realized by the group through final transactions with persons other than members of the group.

(c) *Separate returns made after consolidated returns.* If a corporation which was a member of an affiliated group in a consolidated return period makes or is required to make a separate return for the succeeding taxable year, the value of its opening inventory to be used in computing its net income for such succeeding taxable year shall be the proper value of its closing inventory used in computing consolidated net income for the last consolidated return period.

(d) *Base period years.* For each of the base period years, proper adjustment with respect to unrealized profits or losses in transactions between members of the affiliated group (including any component corporation of any such member as defined in section 740 (b) and (g)) which were affiliated with each other dur-

ing such year within the meaning of section 730 shall be made in the opening and closing inventories of each such affiliated corporation which would have been entitled in a separate return to an excess profits credit based on income.*

§ 33.40 *Bad debts*—(a) *Deduction during consolidated return period.* No deduction shall be allowed during a consolidated return period to any member of the affiliated group on account of worthlessness in whole or in part of any obligation (including accounts receivable, bonds, notes, debts and claims of whatsoever nature) of any other member of the group.

(b) *Limitation on allowance after consolidated return period.* The rules applicable to the allowance of losses upon the sale of bonds shall be applicable to the allowance after the consolidated return period as bad debts of obligations (including accounts rceceivable) of a member of an affiliated group acquired in any way by another member of the group prior to or during the consolidated return period. (See § 33.36.)*

§ 33.41 *Sale and retirement by corporation of its bonds*—(a) *Issued at discount or premium.* If a corporation which during any taxable year (beginning after December 31, 1939) has been a member of an affiliated group which makes or is required to make a consolidated return, has issued its bonds at a discount or premium (whether before, during, or after the first taxable year beginning after December 31, 1939, and whether or not during a consolidated return period), deduction will be allowed for the amortization of the discount, and income included for the amortization of the premium, in the same manner, to the same extent, and upon the same conditions as if the corporation had never been affiliated, except that no deduction for amortization of discount shall be allowed, and no income shall be included for amortization of premium, during a period for which a consolidated return is made, on bonds of one member of the group owned by another member of the group.

(b) *Acquisition of bonds by issuing company.* If a corporation which during any taxable year (beginning after December 31, 1939) has been a member of an affiliated group which makes or is required to make a consolidated return, acquires its bonds (whether or not from another member of such group and whether or not during a consolidated return period), gain or loss shall be recognized in the same manner, to the same extent, and upon the same conditions as if the corporation had never been affiliated, except that, if such bonds are acquired from another member of the group during a consolidated return period, in determining the gain or loss to the issuing company from such acquisition, the basis thereof to such other member of the group shall be deemed the purchase price.*

§ 33.42 *Capital loss limitations and carry-over.* The provisions of sections 23 (g) and (k), 117 (d) and (e), and 122 (d) with respect to gains and losses from sales or exchanges of capital assets shall be applied, in respect of such gains and losses sustained during a consolidated return period, as if the affiliated group were the taxpayer.

With respect to a net short-term capital loss sustained by a corporation in a year prior to the first consolidated return period in respect of which the income of such corporation is included in the consolidated return, such loss (in an amount not in excess of the net income of such corporation for such year or in excess of the net short-term capital gain of such corporation for the first consolidated return period) shall, for the purposes of section 117 (e), relating to a net short-term capital loss carry-over, be treated as if such net short-term capital loss had been sustained by the affiliated group.

A consolidated net short-term capital loss sustained by the affiliated group during the last consolidated return period of the group (in an amount not in excess of the consolidated net income for such year) shall be treated in the succeeding taxable year, subject to the exception provided in section 117 (e), as a short-term capital loss of the common parent corporation. No portion of any consolidated net short-term capital loss sustained during a consolidated return period of an affiliated group shall be used in computing short-term capital losses of a subsidiary for any subsequent taxable year.*

§ 33.43 *Credit for foreign taxes.* The credit allowed to an affiliated group for taxes paid or accrued during the consolidated return period to any foreign country or to any possession of the United States (under section 131 as made applicable and qualified by section 729) shall be computed and allowed as if the affiliated group were the taxpayer, and as if the aggregate taxes paid by the several members of the group and the credits allowed for income tax purposes with respect to such payments were payments made by and credits allowed to the group.*

§ 33.44 *Methods of accounting*—(a) *In general.* For the purpose of determining consolidated excess profits net income, all members of the affiliated group shall adopt that method of accounting which clearly reflects the consolidated excess profits net income. A method of accounting which does not treat with reasonable consistency all items of gross income and deductions of the various members of the group shall not be regarded as clearly reflecting the consolidated excess profits net income. For example, one member of the group will not be permitted to report items of income or deductions on the cash method of accounting, while another member of the same group reports the same or similar items on the accrual method. The provisions of this paragraph are subject to the exceptions stated in paragraph (b).

(b) *Combination of methods.* For the purpose of determining consolidated excess profits net income, if the members of an affiliated group have established different methods of accounting, each member may retain such method with the consent of the Commissioner: *Provided,* That the consolidated excess profits net income is clearly reflected; *And, provided further,* That intercompany transactions affecting consolidated excess profits net income, between members of the group shall be eliminated and adjustments on account of such transactions shall be made with reference to a uniform method of accounting, to be selected by the members of the group with the consent of the Commissioner.

(c) *Change to accrual method.* In the case of a corporation which previously has reported its income (whether in a separate or a consolidated return) in accordance with a method other than the accrual method and is required under this section to report its income for the taxable year under the accrual method, items of income which accrued prior to the taxable year but were properly omitted in the determination of net income under the method of accounting formerly followed shall be included in the income for the taxable year of the change in accounting method, and items of income which were properly included in the determination of net income under the method of accounting formerly followed shall not be included in the income for the taxable year of the change or any subsequent year. In such a case, deductions which accrued prior to the taxable year but which were properly omitted in the determination of net income under the method of accounting formerly followed shall be allowed for the taxable year of the change in accounting method, and deductions which were properly included in the determination of net income under the method of accounting formerly followed shall not be allowed in the determination of net income for the taxable year of change or any subsequent year.*

[SEAL] GUY T. HELVERING,
Commissioner of Internal Revenue.

Approved: MARCH 14, 1941.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 41-1902; Filed, March 14, 1941; 3:31 p. m.]

TITLE 29—LABOR

CHAPTER V—WAGE AND HOUR DIVISION

PART 536—DEFINING THE TERM "AREA OF PRODUCTION"

Regulations—Part 536, as amended—(Regulations defining the term "area of

production" as used in section 7 (c) and in section 13 (a) (10) of the Fair Labor Standards Act) are hereby issued. These regulations repeal and supersede all regulations previously issued defining the term "area of production." These amended regulations shall become effective on April 1, 1941, and shall be in force and effect until repealed by regulations hereafter made and published.

Signed at Washington, D. C., this 12th day of March 1941.

PHILIP B. FLEMING,
Administrator,
Wage and Hour Division,
U. S. Department of Labor.

§ 536.1 *"Area of production" as used in section 7 (c) of the Fair Labor Standards Act.* An employer shall be regarded as engaged in the first processing of any agricultural or horticultural commodity during seasonal operations within the "area of production" within the meaning of section 7 (c):

(a) if all the commodities processed come from farms in the general vicinity of the processing establishment and the number of employees there engaged in such processing does not exceed ten, or

(b) with respect to dry edible beans, if he is so engaged in an establishment which is a first concentration point for the processing of such beans into standard commercial grades for marketing in their raw or natural state. As used in this subsection (b), "first concentration point" means a place where such beans are first assembled from nearby farms for such processing but shall not include any establishment normally receiving a portion of the beans assembled from other first concentration points.*

*§§ 536.1 to 536.3, inclusive, issued under the authority contained in sections 7 (c) and 13 (a) (10), 52 Stat. 1060.

§ 536.2 *"Area of production" as used in section 13 (a) (10) of the Fair Labor Standards Act.* An individual shall be regarded as employed in the "area of production" within the meaning of section 13 (a) (10) in handling, packing, storing, ginning, compressing, pasteurizing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products:

(a) if he performs those operations on materials all of which come from farms in the general vicinity of the establishment where he is employed and the number of employees engaged in those operations in that establishment does not exceed ten, or

(b) with respect to dry edible beans, if he is so engaged in an establishment which is a first concentration point for the processing of such beans into standard commercial grades for marketing in their raw or natural state. As used in this paragraph, "first concentration point" means a place where such beans are first assembled from nearby farms for such processing but shall not include any establishment normally receiving a portion of the beans assembled from other first concentration points, or

(c) with respect to Puerto Rican leaf tobacco, if he is engaged in handling, packing, storing, and drying such tobacco for market in an establishment which is a first concentration point for such tobacco. As used in this paragraph, "first concentration point" means a place where such tobacco is first assembled from nearby farms for such preparation for market but shall not include any establishment normally receiving a portion of the tobacco assembled from other concentration points, nor any establishment operated by a manufacturer for the preparation of tobacco for his own use in manufacturing.*

§ 536.3 *Petition for amendment of regulations.* Any interested person or association wishing a revision of the foregoing regulations may submit in writing to the Administrator a petition for amendment thereof, setting forth the changes desired and the reasons for proposing them. If upon inspection of the petition the Administrator believes that reasonable cause for amendment of the regulations is set forth, the Administrator will either schedule a hearing with due notice to interested parties or will make other provision for affording interested parties an opportunity to present their views either in support of or in opposition to the proposed changes.*

[F. R. Doc. 41-1960; Filed, March 17, 1941; 11:46 a. m.]

TITLE 30—MINERAL RESOURCES

CHAPTER III—BITUMINOUS COAL DIVISION

[Docket No. A-26]

PART 321—MINIMUM PRICE SCHEDULE, DISTRICT NO. 1

MEMORANDUM OPINION AND ORDER CONCERNING CONDITIONAL FINAL RELIEF AND RECONVENING OF ADJOURNED HEARING IN THE MATTER OF THE PETITION OF THE ARROW COAL CORPORATION FOR A CHANGE IN PRICE CLASSIFICATIONS, AND FOR THE ESTABLISHMENT OF ADDITIONAL PRICE CLASSIFICATIONS AND MINIMUM PRICES

This is a proceeding instituted on an original petition filed with the Bituminous Coal Division by Arrow Coal Corporation, a code member in District 1, on September 9, 1940. The petition prays for the issuance of temporary and final orders revising the price classifications for petitioner's Arrow No. 6 Mine (Mine Index No. 18) from "C" to "E", and establishing an "E" classification for the Arrow No. 5 (Mine Index No. 17) and Arrow No. 6 coals, mixed.

On October 5, 1940, and after due notice to all interested persons, an informal conference concerning the matter of temporary relief in the above entitled matter, was held by the Division, pursuant to § 301.106 (d) of the Rules and Regulations Governing Practice and Procedure before the Bituminous Coal Division in Proceedings instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. Thereafter an Order of the Director dated October 18, 1940 temporarily established price classifications of "D" for the Arrow No. 5 and Arrow No. 6 coals, when mixed on a 50-50 basis, pending final determination of the petition in this matter, amending the Schedule of Effective Minimum Prices for District No. 1, for All Shipments Except Truck, by adding the following listing and price classification:

Mine Index No.	Code member	Mine name
17-18	Arrow Coal Corporation.	Arrow No. 5-6 (50-50 basis).

Subdistrict No.	Seam	F. O. G.	Size groups
38	B & C	49	1 D. 2 D. 3 D. 4 D. 5 D.

Pursuant to an Order of the Director dated October 3, 1940, and after due notice to all interested persons, a hearing in this matter was held before Floyd McGown, a duly designated Examiner of the Division, on October 23, 1940 in a hearing room of the Division, 734 15th Street, NW., Washington, D. C. Appearances were entered by the original petitioner, Consumers' Counsel Division, District Board 1, and Loyal Hanna Coal and Coke Company and Heisley Coal Company, code members of District 1. Upon agreement of all parties present, the hearing was adjourned and continued to an indefinite date on the understanding that the Director's Order of October 18, 1940, granting temporary relief in part, was to remain in effect and, further, that any party in interest might, upon ten days notice, request that the hearing be reconvened on a day certain.

It appears that all interested parties have had sufficient time and opportunity to request that the hearing in this matter be reconvened, but that no party has filed such a request.

Now, therefore, it is ordered, That, effective March 20, 1941, unless the Director shall otherwise order, the price classification of "D" and the corresponding minimum prices provided for that classification in the Price Schedule for District No. 1 shall be the permanent effective classification and minimum prices for the Arrow No. 5 Mine and Arrow No. 6 Mine coals, when mixed on a fifty-fifty basis.

It is further ordered, That effective March 20, 1941, unless the Director shall otherwise order, § 321.7 (*Alphabetical list of code members*) shall be amended by addition of the following listing and price classification:

Mine Index No.	Code member	Mine name
17-18	Arrow Coal Corporation.	Arrow No. 5-6 (50-50 basis).

Subdistrict No.	Seam	F. O. G.	Size groups
38	B & C	49	1 D. 2 D. 3 D. 4 D. 5 D.

It is further ordered, That unless the Director shall otherwise order, this docket shall be closed as of March 20, 1941.

It is further ordered, That any applications to stay, terminate or modify the relief herein granted, or any requests to reconvene the hearing in this matter shall be filed with the Division on or before March 15, 1941.

Dated: March 13, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-1927; Filed, March 15, 1941; 11:33 a. m.]

[Dockets Nos. A-613 and A-614]

PART 330—MINIMUM PRICE SCHEDULE, DISTRICT NO. 10

ORDER CORRECTING TYPOGRAPHICAL ERROR IN THE MATTERS OF THE PETITIONS OF DISTRICT BOARD 10 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MANES IN DISTRICT NO. 10 NOT HERETOFORE CLASSIFIED AND PRICED, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

A typographical error occurred in the Director's Order Granting Temporary Relief and Conditionally Providing for Final Relief, dated January 31, 1941, in the above-entitled matters.

In Supplement T for Truck Shipments, which supplement amends § 330.25, under section No. 1, Livingston County, Mine Index No. 1424 should be inserted after the name, South Side Coal Co., in lieu of Mine Index No. 1224 presently appearing therein.

Accordingly, *it is so ordered.*

Dated: March 13, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-1925; Filed, March 15, 1941; 11.32 a. m.]

[Docket No. A-94]

PART 328—MINIMUM PRICE SCHEDULE DISTRICT NO. 8

ORDER OF THE DIRECTOR GRANTING PERMANENT RELIEF IN THE MATTER OF THE PETITION OF GLEN ALUM COAL COMPANY FOR EXTENSION OF INDUSTRIAL PRICES TO HOWE SCHOOL, AND IN THE MATTER OF THE INDUSTRIAL PRICES FOR DISTRICTS 7, 8, 9, AND 13.

An original petition having been filed with the Bituminous Coal Division on October 8, 1940, by the Glen Alum Coal Company, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937, seeking authorization for the Howe School of Howe, Indiana, to purchase coal in carload quantities for its own use at the minimum f. o. b. mine prices established for "Industrial Coal," as provided in Price Instruction No. 12 in the Schedule of Effective Minimum Prices for District No. 8, For All Shipments Except Truck; and

Pursuant to the Director's Order of October 29, 1940, a hearing having been held in this matter on November 25, 1940; before a duly designated Examiner of the Division, at a Hearing Room of the Division, Roger Smith Hotel, Washington, D. C., at which all interested persons were afforded an opportunity to be present, adduce evidence, cross-examine witnesses and otherwise be heard; and

The Director having made Findings of Fact and Conclusions of Law dated March 14, 1941, which are filed herewith:[1]

It is ordered, That § 328.1 (a) *Price Instruction No. 12* be amended by adding thereto as a footnote the following:

The minimum f. o. b. mine prices established for "Industrial Coal" shall apply to coal purchased for use in its industrial plant by the Howe School of Howe, Indiana, in carload quantities for its own use.

Dated: March 14, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-1942; Filed, March 17, 1941; 11:19 a. m.]

TITLE 32—NATIONAL DEFENSE

CHAPTER VI—COUNCIL OF NATIONAL DEFENSE

[Price Schedule No. 1]

SECOND-HAND MACHINE TOOLS

Price Schedule No. 1,[2] issued February 17, 1941, is hereby amended in the following respects:

1. Section 2 is hereby amended by striking the text thereof and substituting in its place the following:

2. Each dealer in second-hand machine tools shall file with the Price Stabilization Division a report on each floor-type second-hand machine tool in his stock or purchased through him as agent, and a report on each second-hand machine tool sold or otherwise disposed of, by him or through him as agent.

a. All reports on second-hand machine tools must be made on FORM PSD 100:1. Form PSD 100:1 may be reproduced by the dealer, or printed on the reverse side of regular stock sheets, provided that no change is made in the style and content of the report and that the report is on 8½" by 11" paper.

b. Dealers shall file reports, not later than March 25, 1941, for each second-hand machine tool in stock as of March 15, 1941. A report for each second-hand machine tool added to stock after March 15, 1941, shall be filed not more than one week after the machine tool is purchased or otherwise acquired. *Failure to object to an offering price as disclosed by a report does not constitute approval of the price by this Division.*

c. Reports for each second-hand machine tool sold or otherwise disposed of by or through a dealer after March 15, 1941, shall be filed by the dealer within one week after the transaction.

d. When a second-hand machine tool is sold or otherwise disposed of within one week after acquisition and before the report of inventory or addition has been filed, such report of inventory or addition shall not be required. In such case, however, the report of sale or other disposition shall note that no previous report on the machine tool has been filed.

e. For the purpose of reporting sales, the receipt of an order shall be reported as a sale. (If the order is later canceled, the Division is to be advised forthwith and the machine tool reported as added to inventory).

f. When a machine tool is disposed of by lease, or otherwise than by sale, a full statement of the transaction shall be made on the report.

g. Inasmuch as prices, including commissions, may not exceed the "ceiling" prices, all offering or sale prices quoted in the report shall include commissions to be charged, or which have been charged, respectively.

h. Where a dealer has acted as purchasing agent, he shall make a report on the second-hand machine tool as if it had been purchased and immediately sold by him (see clause d, above), and shall report the amount paid by the purchaser, including any commission paid to him as purchasing agent.

i. Dealers shall assign a separate inventory number to each second-hand machine tool handled by them and shall use

[1] Not filed as part of the original document.

[2] Amending Price Schedule No. 1 (6 F.R. 1021), issued by the Price Stabilization Division, Advisory Commission to the Council of National Defense.

this number in making reports hereunder. If a machine tool is held in joint ownership, the inventory report shall be made by the dealer who has possession of the machine tool, or if none of the owners has possession of it, by the dealer in whose name the machine tool was purchased. When the machine tool is sold, the dealer in whose name the sale is made shall report the sale, referring to the inventory number previously assigned to the machine tool.

j. All reports shall be filed in duplicate, and signed by the dealer or by an officer of the dealer.

k. Complete records shall be preserved by dealers on all second-hand machine tools purchased, sold, or otherwise handled or dealt in after March 15, 1941.

l. Subject to the provisions of paragraph 6 below, all information filed or received pursuant to this Price Schedule No. 1 shall be treated as confidential, except that it may be transmitted to any other agency or department of the Government.

2. Appendix A is hereby amended by striking paragraph 2 and adding in place thereof the following paragraphs 2 and 3:

2. As used above, the term "rebuilt and guaranteed" applies only to a machine tool which (1) has been rebuilt or is in equivalent condition to a rebuilt machine tool and is invoiced as such; (2) has been tested; and (3) carries a binding guaranty of satisfactory performance for a period of not less than thirty days from date of shipment.

3. Machine tools formerly equipped with a cone drive are often now manufactured with a geared head. In such cases determine the price of an equivalent new machine tool by deducting 20% from the current price of the new geared head machine tool.

3. Appendices B and C, prescribing forms for reports required under section 2, are hereby revoked.

Effective March 15, 1941.

LEON HENDERSON,
Commissioner.

[F. R. Doc. 41-1930; Filed, March 15, 1941; 12:48 p. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

CHAPTER I—COAST GUARD, DEPARTMENT OF THE TREASURY

PART 7—ANCHORAGE AND MOVEMENTS OF VESSELS AND THE LADING AND DISCHARGING OF EXPLOSIVE OR INFLAMMABLE MATERIAL OR OTHER DANGEROUS CARGO

Pursuant to the authority contained in section 1, Title II of the Act of June 15, 1917, 40 Stat. 220 (U.S.C. title 50, sec. 191), and a Proclamation issued June 27, 1940 (5 F.R. 2419), the Rules and Regulations Governing the Anchorage and Movements of Vessels and the Lading and Discharging of Explosive or Inflammable Material or Other Dangerous Cargo approved October 29, 1940 (5 F.R. 4401), are hereby amended as follows:

Paragraph (c), § 7.10, is amended by adding the following subparagraphs (3), (4) and (5):

(3) Subparagraph (14), paragraph (a), of the rules and regulations for San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, New York Slough and San Joaquin River, California (33 CFR 202.90 (a) (14)), reaffirmed and continued in force by these regulations, is amended to read as follows:

(14) *Anchorage (explosives) No. 14.* The circular area having a radius of 1,500 feet about a white buoy used to mark the location of this anchorage, the center of which is 3,000 yards, 100° from the chimney of the pumping plant at the Hunters Point dry docks (Point Avisadero). (For use of this anchorage, see rules and regulations below.)

The circular zone 1,500 feet wide surrounding this Explosive Anchorage No. 14 is forbidden anchorage and shall not be used by any vessels.

This anchorage and the surrounding zone of forbidden anchorage may be temporarily discontinued by the captain of the port when the area occupied by them is needed for general anchorage purposes.

(4) The following portions, designated Section A and Section B, of General Anchorage No. 9, San Francisco Bay, are hereby defined and established as restricted seaplane areas through which no water craft shall be operated or anchored except those attendant upon seaplane operations of the United States Navy: *Provided,* That this restriction with respect to Section B shall not take effect until the completion of the dredging of seaplane channels therein as announced by the district engineer in charge of the locality:

SECTION A. That portion of San Francisco Bay, abutting on the south side of the channel to the United States Naval Air Station at Alameda, the corners of which are the following distances and true bearings from the chimney of the pumping plant at the Hunters Point dry docks (Point Avisadero); 4,700 yards, 13½°; 5,715 yards, 17½°; 6,700 yards, 37°; 7,185 yards, 49½°; 7,115 yards, 86°; 1,870 yards, 74½°.

SEC. B. That portion of San Francisco Bay abutting on the east side of the above Section A, the corners of which are the following distances and bearings from the chimney of the pumping plant at the Hunters Point dry docks (Point Avisadero); 7,185 yards, 49½°; 9,400 yards, 70½°; 9,250 yards, 73½°; 7,115 yards, 86°.

NOTE: The above areas will be marked by the United States Coast Guard in accordance with standard practice for the designation of anchorage areas and such other buoys as may be selected by the United States Navy, the Civil Aeronautics Authority and the Coast Guard.

(5) The following regulations, approved by the Secretary of War on January 27, 1941, adding a new section to the Danger Zone Regulations (Code of Federal Regulations, title 33, part 204), are hereby affirmed and adopted:

§ 204.97 *San Pablo Bay, California; U. S. Air Corps firing range, Tubbs Island*—(a) *The danger zone.* The sector in San Pablo Bay, California, the northeasterly limit of which bears South 68° East, 9,300 yards from the easterly end of the line of targets of the United States Air Corps firing range on Tubbs Island, and the westerly limit of which bears South 8° East, 9,300 yards from the westerly end of said line of targets.

(b) *The regulations.* (1) Except as provided in paragraphs (2) and (3) below, no vessels shall be operated or anchored in the above area, except vessels operated by the United States.

(2) No firing will be done on Saturdays, Sundays, or National holidays, and vessels may be operated in the above area on such days.

(3) Persons desiring to navigate vessels across the restricted area at other times than those specified above shall give advice of their intention to do so to the Commanding Officer, Hamilton Field, California, not less than four hours in advance of the time they desire to take their vessels across the area.

(4) These regulations shall be enforced by the Commanding General, Hamilton Field, California, and such agencies as he may designate.

The following section is inserted:

§ 7.17 *Newburyport Harbor, Massachusetts; special anchorage area.* The following area is designated as a special anchorage area wherein vessels not more than sixty-five feet in length, when at anchor, shall not be required to carry or exhibit anchor lights:

Eastward of a line from the northeast corner of the American Yacht Club property bearing due north to a point about 900 feet, 237 degrees from South Pier; southward of a line bearing 70 degrees to a point 310 feet, 212 degrees from South Pier, said line extending easterly to a point about 600 feet due south of North Pier; westward of a line bearing due south from North Pier to the shoreline.

The anchorage regulations for Boston Harbor are amended to read as follows:

§ 7.20 *Boston, Massachusetts*—(a) *The Anchorage Area*—(1) *Bird Island Anchorage.* This anchorage shall include the area between the following points:

(A) 1400 yards 93° true from the aerial beacon on top of the Boston Custom House tower;

(B) 1600 yards 81° true from the aerial beacon on top of the Boston Custom House tower;

(C) 3100 yards 102° true from the aerial beacon on top of the Boston Custom House tower (beacon (A));

(D) 3050 yards 109° true from the aerial beacon on top of the Boston Cus-

tom House tower (Flashing Red Buoy No. 10).

(2) *President Roads anchorage.* This anchorage is the area bounded by the following points:

(A) 350 yards 261° true from Deer Island Light;
(B) 2900 yards 261° true from Deer Island Light;
(C) 2600 yards 272° true from Deer Island Light;
(D) 650 yards 319° true from Deer Island Light.

The captain of the port may authorize the use of this anchorage as an explosive anchorage when he finds that the interests of commerce will be promoted thereby and the interests of safety and national defense will not be prejudiced thereby. Vessels anchoring in this anchorage shall move promptly upon notification by the captain of the port.

(3) *Long Island anchorage.* This anchorage, located east of Long Island, is the area bounded by the following lines:

A line drawn 270° true from the southwesternmost point of Gallups Island to Long Island; thence the eastern shore line of Long Island to Bass Point; thence from Bass Point to the northernmost point of Rainsford Island; thence to Buoy "GONG 6"; thence to the starting point on Gallups Island.

Vessels shall anchor in position designated by the captain of the port.

(4) *Castle Island anchorage.* This anchorage is the area bounded as follows:

(A) On the north by Castle Island and adjacent land;
(B) On the east by a line drawn between Castle Rocks Fog Signal and Old Harbor Shoal Buoy "N2";
(C) On the southeast by a line drawn between Old Harbor Shoal Buoy "N2" and Old Harbor Buoy "N4";
(D) On the west by a line drawn between Buoy "N4" and City Point Cupola.

Vessels anchoring in this anchorage shall move promptly upon notification by the captain of the port.

(5) *Explosive anchorage.* The explosive anchorage for Boston is in the lower harbor, and shall be the area bounded as follows:

(A) On the northeast by a line between the northeast end of Peddocks Island and the northeast end of Rainsford Island;
(B) On the northwest by Rainsford Island;
(C) On the southwest by a line between the western extremity of Rainsford Island and the westernmost point of Peddocks Island;
(D) On the southeast by Peddocks Island.

The anchorage regulations for New Orleans, Louisiana, are amended by adding a new subparagraph as follows:

§ 7.45 *New Orleans, Louisiana*—(a) (28) *Anchorage No. 3 (explosive).* Located one and four-tenths miles up river from Oak Point Navigation Light. The captain of the port shall designate anchorages up or down river from the point named. The anchorage area extends from the west bank of the river to a point 1,000 feet to the eastward.

This anchorage shall be reserved for vessels carrying explosives, without limit as to quantity.

The following section is inserted:

§ 7.53 *Corpus Christi Bay, Texas; special anchorage areas.* The following areas are designated as special anchorage areas wherein vessels not more than 65-feet in length, when at anchor, shall not be required to carry or exhibit anchor lights:

North anchorage area. South and westward of the north breakwater; northward of a line 200 feet north and parallel to the maneuvering basin and bearing north 83°45′ west, 737.9 feet from a point marked by a lead plug in the concrete cap of said breakwater, from which the Weather Service Display Tower bears south 80°45½′ west; eastward of a line bearing thence north 18°11′ east, 675.5 feet, thence due north, 725.1 feet to a lead plug in concrete cap of breakwater.

South anchorage area. Southward of the southernmost T-head pier at the foot of Cooper Avenue and of a line bearing south 23°16′ east, 340.6 feet from the southerly corner of said pier to a point on rubble breakwater; westward and northward of said breakwater; eastward of the Corpus Christi sea wall.

The anchorage regulations for San Juan, Puerto Rico, are amended to read as follows:

§ 7.55 *San Juan, Puerto Rico*—(a) *The anchorage area.* Anchorage grounds in San Juan Harbor are bounded as follows:

(A) On the north by a line between Puntilla Point Light and Isle Grandè Light;
(B) On the south by a line between Buoy No. 12 and Buoy No. 18.
(C) On the east by a line from Buoy No. 18 through positions of buoys marking the eastern edge of the harbor.
(D) On the west by a line starting from a point 463 yards westward from Buoy No. 18 (on a line between Buoy No. 12 and Buoy No. 18) and extending 25° true to the northern boundary line.

(1) *Anchorage (A).* Anchorage (A) comprises that part of the anchorage area described above which lies north of a line bearing 112° from Puntilla Point Light and between the east and west boundary line. Anchorage (A) shall be a general anchorage, vessels awaiting customs or quarantine shall use this anchorage. No vessel shall remain in this anchorage more than 12 hours without a permit from the captain of the port.

(2) *Anchorage (B) (restricted).* Anchorage (B) comprises that part of the anchorage area described above, bounded on the north by a line bearing 112° from Puntilla Point Light, on the south by a line between Buoy No. 12 and Buoy No. 18 and on the east and west by the lines defining the anchorage area. No vessel shall anchor in anchorage (B) without a permit from the captain of the port.

(3) *Anchorage (D).* Anchorage (D) comprises that part of San Antonio Channel which lies to the eastward of longitude 66°05′45″ west. Anchorage (D) shall be a yacht and small craft anchorage.

The following section is inserted:

§ 7.82 *Monroe Harbor, Michigan.* (a) No vessel shall exceed a speed of six miles per hour in the river channel nor ten miles per hour in the lake channel.

(b) No vessel or other craft shall moor or anchor in or along any improved channel or basin in such a manner as to interfere with the improvement or maintenance operations therein. Whenever in the opinion of the captain of the port any vessel or craft is so moored or anchored, the owner thereof shall cause such vessel or craft to be moved upon notification from, and within the time specified by, said captain of the port.

(c) No tow shall enter or pass through the river portion of the channel with a towline more than two hundred feet in length.

Paragraph (a) § 7.95 (paragraph 1 of the General Provision) is amended to read as follows:

Whenever the term "captain of the port" is used in these Rules and Regulations it shall also be construed to include such enforcement officer, other than the captain of the port, as may be designated by the Secretary of the Treasury pursuant to section 2 of the Regulations issued by the Secretary and approved by the President on June 27, 1940.

The captain of the port is the officer of the Coast Guard designated as such by the Commandant of the Coast Guard for certain ports and territorial waters of the United States.

[SEAL] H. MORGENTHAU,
Secretary of the Treasury.

Approved:

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
March 10, 1941.

[F. R. Doc. 41-1916; Filed, March 15, 1941; 10:51 a. m.]

TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

CHAPTER I—VETERANS' ADMINISTRATION

PART 5—ADJUDICATION: DEFENDANTS' CLAIMS

BURIAL AND FUNERAL EXPENSES AND TRANSPORTATION OF BODIES OF VETERANS

Definition of "Veteran" (Other Than "Veteran Of Any War") amended:

§ 5.2695 *"Veteran" (other than "Veteran of any War")—Definition of*—(a) *Persons included.* The term "veteran" other than a "veteran of any war") for the purpose of adjudicating claims for the direct payment of or reimbursement for burial, funeral and transportation expenses incurred in behalf of deceased veterans where death occurred on or subsequent to October 5, 1940, will include: (1) a veteran discharged or retired from the Army, Navy, Marine Corps or Coast Guard for disability incurred in line of duty, or (2) a veteran of the Army, Navy, Marine Corps or Coast Guard in receipt of pension for service-connected disability. (Public No. 796, 76th Congress)

(b) *Discharge for disability incurred in line of duty.* For veterans discharged or retired from the Army, Navy, Marine Corps or Coast Guard for disability, who are not in receipt of pension for service-connected disability, the official records of the service department relative to finding of line of duty for its purposes will be accepted in determining eligibility for the burial allowance, notwithstanding that the Veterans' Administration has made a determination in connection with a claim for monetary benefits that the disability was incurred not in line of duty.

(c) In those exceptional cases where the official records of the service department show discharge because of expiration of period of enlistment or any other reason save disability but also show a disability incurred in line of duty and on account of which the veteran was under treatment at the time of discharge, or where not under treatment therefor at time of discharge, said disability is considered in medical judgment to be or to have been of such character, duration and degree as to have justified a discharge for disability incurred in line of duty had the period of enlistment not expired or other reason for discharge been given, the adjudicating agency, upon consideration of the facts of record, is authorized to determine whether such facts were sufficient to have warranted a discharge for disability incurred in line of duty, and if determined to have been so warranted, the burial allowance may be authorized, provided entitlement is otherwise established.

(d) Where claim for the burial allowance has been disallowed on the basis of the official records of the service department showing that the disability was *not* incurred in line of duty and evidence is submitted to the Veterans' Administration which permits of a different finding, the decision of the service department will not be binding upon the Veterans' Administration which will be free to make its own determination of line of duty incurrence upon the evidence so submitted, provided that the burden of proof will rest upon the claimant. Such controverting evidence will be considered by those employees authorized to make findings of fact and law in burial claims except that in any case under this paragraph or (c) above where a medical question is involved, the case will be referred to a rating agency of original jurisdiction for determination as to whether the disability for which the veteran was discharged was incurred in line of duty or for determination as to whether the facts of record would, in those cases where discharge was for other reasons, save disability, have warranted a discharge for disability incurred in line of duty. (March 15, 1941.) [10 U.S.C.A. 487a, Joint Resolution No. 96 and Pub. No. 783, 76th Congress]

[SEAL] FRANK T. HINES,
Administrator.

[F. R. Doc. 41-1928; Filed, March 15, 1941; 11:36 a. m.]

Notices

WAR DEPARTMENT.

[Contract No. W 6863 qm-1; O. I. No. 1-41]

SUMMARY OF COST-PLUS-A-FIXED-FEE CONSTRUCTION CONTRACT [1]

CONTRACTOR: WALSH CONSTRUCTION COMPANY, 5105 SECOND STREET, LONG ISLAND CITY, NEW YORK

Fixed-fee, $233,143.

Contract for Construction of a complete cantonment camp including necessary buildings, temporary structures, utilities and appurtenances thereto.

Place: Falmouth Military Reservation, Falmouth, Massachusetts.

Estimated cost of project, $7,240,462.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same: QM 8049 P 3-3211 A 0002.003-02.

This contract, entered into this 7th day of September 1940.

Statement of work. The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work: Construction of a complete cantonment camp, including necessary buildings, temporary structures, utilities and appurtenances thereto at Falmouth Military Reservation, Falmouth, Massachusetts.

It is estimated that the total cost of the construction work covered by this contract will be approximately seven million, two hundred forty thousand, four hundred sixty-two dollars ($7,240,462), exclusive of the Contractor's fee.

In consideration for his undertaking under this contract the Contractor shall receive the following:

(a) Reimbursement for expenditures as provided in article II.

(b) Rental for Contractor's equipment as provided in article II.

(c) A fixed fee in the amount of two hundred thirty-three thousand one hundred forty-three dollars ($233,143) which shall constitute complete compensation for the Contractor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment and supplies, for which the Contractor shall be entitled to be reimbursed under article II, shall vest in the Government.

Payments — Reimbursement for cost. The Government will currently reimburse the Contractor for expenditures made in accordance with article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

Rental for Contractor's equipment. Rental as provided in article II for such construction plant or parts thereof as the Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

Payment of the fixed-fee. The fixed-fee prescribed in article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer. Upon completion of the work and its final acceptance, any unpaid balance of the fee shall be paid to the Contractor.

Termination of contract by Government. Should the contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

This contract is authorized by the following laws:

[1] Approved by the Assistant Secretary of War September 9, 1940.

Public—No. 611—76th Congress, Approved June 13, 1940.

Public—No. 703—76th Congress, Approved July 2, 1940.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41-1909; Filed, March 15, 1941; 10:01 a. m.]

[Contract No. W 6863 qm-2; O. I. No. 2-41]

SUMMARY OF CONTRACT FOR COST-PLUS-A-FIXED-FEE ARCHITECT-ENGINEER SERVICES [1]

ARCHITECT-ENGINEER: CHAS. T. MAIN, INC., 201 DEVONSHIRE STREET, BOSTON, MASSACHUSETTS

Amount fixed fee: $39,650.00.

Estimated cost of construction project: $7,473,605.00.

Type of construction project: Construction of Complete Cantonment Camp including necessary buildings, temporary structures, utilities and appurtenances thereto.

Location: Falmouth Military Reservation, Falmouth, Massachusetts.

Type of service: Architect-Engineering.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. QM 8050 P3-3211 A 0002.003-02, the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 9th day of September 1940.

Description of the work. The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: Construction of a complete cantonment camp at Falmouth Military Reservation, Falmouth, Massachusetts, and estimated to cost $7,473,605.00.

Data to be furnished by the Government. The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions, outside utilities and equipment as may be essential for the preparation of preliminary sketches and the development of final drawings and specifications.

Fixed-fee and reimbursement of expenditures. In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following:

A fixed fee in the amount of thirty-nine thousand six hundred and fifty dollars ($39,650.00) which shall constitute complete compensation for the Architect-Engineer's services.

Reimbursement for the following expenditures. The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract, subject to the provisions of paragraph 1 b. (2) above.

Method of payment. Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified payrolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed fee earned.

All drawings, specifications, and blue prints are to become the property of the Government on completion of payments.

Changes in scope of project. The Contracting Officer may at any time, by a written order, make changes in the scope of the work contemplated by this contract.

Termination for cause or for convenience of the Government. The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

Public No. 611—76th Congress, approved June 15, 1940.

Public No. 703—76th Congress, approved July 2, 1940.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41-1910; Filed, March 15, 1941; 10:01 a. m.]

[Contract No. W 6367 QM-3; O. I. No. 3-41]

SUMMARY OF CONTRACT FOR COST-PLUS-A-FIXED-FEE ARCHITECT-ENGINEER SERVICES [1]

ARCHITECT-ENGINEER: BURGE AND STEVENS, PALMER BUILDING, ATLANTA, GEORGIA

Amount fixed fee: $16,590.00.

Estimated cost of construction project $1,613,513.00.

Type of construction project: Construction of all necessary buildings, temporary structures, utilities and appurtenances thereto, and extensions to same, for a complete airport, including accommodations for personnel.

Location: Savannah Airport, Savannah, Georgia.

Type of service: Architect-Engineer.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. QM 9065 Pl-3211 A 0540.-063-N, the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 16th day of September 1940.

Description of the work. The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: Construction of all necessary buildings, temporary structures, utilities and appurtenances thereto for a complete airport at Savannah Airport, Savannah, Georgia, and estimated to cost $1,613,513.00.

Data to be furnished by the Government. The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions, outside utilities and equipment as may be essential for the preparation of preliminary sketches and the development of final drawings and specifications.

Fixed-fee and reimbursement of expenditures. In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following:

A fixed fee in the amount of sixteen thousand five hundred ninety and no/100 dollars ($16,590.00) which shall constitute complete compensation for the Architect-Engineer's services.

Reimbursement for the following expenditures:

The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract, subject to the provisions of paragraph 1 b. (2) above.

Method of payment. Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified payrolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed fee earned.

All drawings, specifications, and blue prints are to become the property of the Government on completion of payments.

Changes in scope of project. The Contracting Officer may at any time, by a written order, make changes in the scope of the work contemplated by this contract.

Temination for cause or for convenience of the Government. The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

Public No. 611—76th Congress, approved June 13, 1940.

Public No. 703—76th Congress, approved July 2, 1940.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of
Purchases and Contracts.

[F. R. Doc. 41-1908; Filed, March 15, 1941; 10:00 a. m.]

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[1] Approved by the Assistant Secretary of War September 11, 1940.

[1] Approved by the Assistant Secretary of War September 20, 1940.

[Contract No. W 6945 qm-2; O. I. No. 2-41]

SUMMARY OF COST-PLUS-A-FIXED-FEE CONSTRUCTION CONTRACT

CONTRACTOR: GOODE CONSTRUCTION CORPORATION, CHARLOTTE, NORTH CAROLINA

Fixed-fee: $63,400.00.

Contract for: Construction of all necessary buildings, temporary structures, utilities and appurtenances thereto, and extensions to same, for a complete airport, including accommodations for personnel.

Place: Savannah Airport, Savannah, Georgia.

Estimated cost of project: $1,550,113.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same:

QM 9066 P1-99 A 0540.063-N

This contract, entered into this 19th day of September 1940.

Statement of work. The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work: Construction of all necessary buildings, temporary structures, utilities and appurtenances thereto, and extensions to same, for a complete airport, including accommodations for personnel at Savannah Airport, Savannah, Georgia.

It is estimated that the total cost of the construction work covered by this contract will be approximately one million, five hundred fifty thousand, one hundred thirteen dollars ($1,550,113.00), exclusive of the Contractor's fee.

In consideration for his undertaking under this contract the Contractor shall receive the following:

(a) Reimbursement for expenditures as provided in article II.

(b) Rental for Contractor's equipment as provided in article II.

(c) A fixed fee in the amount of sixty-three thousand, four hundred and no/100 dollars ($63,400.00) which shall constitute complete compensation for the Contractor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment and supplies, for which the Contractor shall be entitled to be reimbursed under article II, shall vest in the Government.

Payments—Reimbursement for cost. The Government will currently reimburse the Contractor for expenditures made in accordance with article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

Rental for Contractor's equipment. Rental as provided in article II for such construction plant or parts thereof as the Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

Payment of the fixed-fee. The fixed-fee prescribed in article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer. Upon completion of the work and its final acceptance, any unpaid balance of the fee shall be paid to the Contractor.

Termination of contract by Government. Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

This contract is authorized by the following laws:

Public No. 611—76th Congress, approved June 13, 1940.

Public No. 703—76th Congress, approved July 2, 1940.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-1907; Filed, March 15, 1941; 10:00 a. m.]

[Contract No. W 6985 qm-1; O. I. No. 1-41]

SUMMARY OF CONTRACT FOR COST-PLUS-A-FIXED-FEE ARCHITECT-ENGINEER SERVICES [1]

ARCHITECT-ENGINEER: J. B. CONVERSE & CO., INC., AND A. C. POLK, AN INDIVIDUAL, OF MOBILE AND BIRMINGHAM, ALABAMA, RESPECTIVELY

Amount fixed fee: $12,000.00.

Estimated cost of construction project: $11,171,171.00.

Type of construction project: Construction of a new Ordnance Depot.

Location: Calhoun County, Alabama (near Anniston, Alabama).

Type of service: Architectural-Engineering. (Preliminary study, survey and report).

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authority No. QM 7415 P1-3211 A 0540.067-N, the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 7th day of November 1940.

Description of the work. The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: Construction of a new Ordnance Depot at Anniston Ordnance Depot Calhoun County, Alabama, and estimated to cost $11,171,171.00.

Data to be furnished by the Government. The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions, outside utilities and equipment as may be essential for the preparation of preliminary sketches and the development of final drawings and specifications.

Fixed-fee and reimbursement of expenditures. In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following:

A fixed fee in the amount of twelve thousand and no/100 dollars ($12,000.00) which shall constitute complete compensation for the Architect-Engineer's services.

Reimbursement for the following expenditures:

The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract, subject to the provisions of paragraph 1b (2) above.

Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified payrolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed fee earned.

All drawings, specifications, and blue prints are to become the property of the Government on completion of payments.

Changes in scope of project. The Contracting Officer may at any time by a written order, make changes in the scope of the work contemplated by this contract.

Termination for cause or for convenience of the Government. The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

[1] Approved by The Assistant Secretary of War, September 24, 1940.

[1] Approved by The Under Secretary of War, November 25, 1940.

Public No. 703—76th Congress, approved July 2, 1940.

Public No. 309—76th Congress, approved August 7, 1939.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-1915; Filed, March 15, 1941; 10:03 a. m.]

[Contract No. W-849-ORD-2302]

SUMMARY OF CONTRACT [1] FOR SUPPLIES

CONTRACTOR: OMAHA STEEL WORKS

Contract for: Machining * * * shell * * * from rough turned forgings

Amount, $2,570,750.00

Place: St. Louis Ordnance District, St. Louis, Missouri.

The machined shell to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authority ORD-6830 P11-0270 A 1005-01, the available balance of which is sufficient to cover cost of same.

This contract, entered into this 26th day of December 1940.

Scope of this contract. The contractor shall furnish and deliver * * * machined shell * * * for the consideration stated two million five hundred seventy thousand seven hundred fifty dollars ($2,570,750.00) in strict accordance with the specifications, schedules and drawings, all of which are made a part hereof.

Changes. Where the supplies to be furnished are to be specifically manufactured in accordance with drawings and specifications, the contracting officer may at any time, by a written order, and without notice to the sureties, make changes in the drawings or specifications, except Federal Specifications. Changes as to shipment and packing of all supplies may also be made as above provided.

Payments. The contractor shall be paid, upon the submission of properly certified invoices or vouchers, the prices stipulated herein for articles delivered and accepted or services rendered less deductions, if any, as herein provided. Payments will be made on partial deliveries accepted by the Government when requested by the contractor whenever such payments would equal or exceed either $1,000 or 50 percent of the total amount of the contract.

Liquidated damages. If the contractor refuses or fails to make delivery of the materials or supplies within the time specified in Article 1, or any extension thereof, the actual damage to the Government for the delay will be impossible to determine, and in lieu thereof, the contractor shall pay to the Government, as fixed, agreed, and liquidated damages * * * percent of the contract price of the undelivered portion for each day of delay in making delivery beyond the dates set forth in the contract for deliveries with a maximum liquidated damage charge of * * * percent and the contractor and his sureties shall be liable for the amount thereof.

Quantities. The Government reserves the right to increase the quantity on this contract by as much as * * * percent and at the unit price specified in Article 1, such option to be exercised within * * * days from date of this contract.

Performance bond. Contractor shall be required to furnish a performance bond in duplicate in the sum of * * * per centum of the total amount of this contract with surety or other security acceptable to the Government to cover the successful completion of this contract.

Termination when contractor not in default. This contract is subject to termination by the Government at any time as its interests may require.

Materials to be supplied by the Government. The Government will furnish a quantity of rough turned forgings.

Use of Government owned machine tools and aids to manufacture. In the manufacture of the articles of munitions listed under Article 1 hereof, the use of machine tools, punches, dies, gages, jigs, fixtures, patterns, and other aids to manufacture acquired by the Government is hereby approved and agreed upon, and the price of this contract is predicated upon such use.

This contract is authorized by the Act of Congress approved July 2, 1940 (Public No. 703, 76th Congress).

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-1912; Filed, March 15, 1941; 10:02 a. m.]

[Supplemental Contract No. A [1]]

SUMMARY OF SUPPLEMENTAL [2] COST-PLUS-A-FIXED FEE CONTRACT [3]

CONTRACTOR: ALVORD, BURDICK AND HOWSON, 1401 CIVIC OPERA BUILDING, CHICAGO, ILLINOIS

Estimated cost: (Original) $8,384,070.00 (Supplemental) $5,559,410.00, total $13,943,480.00.

Fixed-fee: (Original) $44,600.00 (Supplemental) $28,487.00, total $73,087.00.

Supplemental contract for: Architectural and Engineering Services in connection with the addition of a Reception Center, a Replacement Center, a * * * railroad spur, and contingent changes in utilities and appurtenances.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to Procurement Authority No. QM 7540 P1-3211 A 0540.068-N, the available balance of which is sufficient to cover the cost of same.

This supplemental contract, entered into this 2nd day of January 1941.

Whereas, by letter dated * * *, the Architect-Engineer was directed and authorized to transfer all activities from the site in Iowa to a new site in Pulaski and Texas Counties near Rolla, Missouri, pending execution of this supplemental contract, which letter the parties hereto now desire to confirm and merge herein.

Now therefore, the parties do hereby mutually agree that the said principal contract above described shall be and the same is hereby modified in the following manner:

Add the following to the description of the project set forth under Article I, paragraph 1 of the principal contract: Additional buildings * * *.

Delete the last seven lines of paragraps 1 of Article I of the principal contract, relating to the location, estimated cost of the construction project and the completion time thereof, and Insert in lieu thereof the following:

including utilities and appurtenances (hereinafter referred to as "the project") at Seventh Corps Area Training Center, Pulaski and Texas Counties, Missouri, and estimated to cost $13,943,480.00, which estimate of cost is based on the best available data which are on file in the office of the Contracting Officer.

Delete Sub-Paragraph a. of Section 1 of Article VI of the principal contract relating to the fixed fee and insert in lieu thereof the following:

a. A fixed fee in the amount of seventy-three thousand and eighty-seven and no/100ths ($73,087.00), which shall constitute complete compensation for the Architect-Engineer's services.

The principal contract, except as modified and supplemented by this Supplemental Contract, shall be and remain in full force and effect.

This supplemental contract is authorized by Public No. 703, 76th Congress, Approved July 2, 1940.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-1911; Filed, March 15, 1941; 10:01 a. m.]

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[1] Approved by The Assistant Secretary of War, February 18, 1941.

[1] Original published FR, Nov. 26, 1940.

[2] Contract No. W 6969 qm-1, Dated Oct. 12, 1940, for the architectural-engineering services in connection with a Cantonment Camp at Seventh C. A. Training Center.

[3] Approved by the Assistant Secretary of War February 17, 1941.

[Contract No. W 6942 qm-3 O. I. No. 3-41]

SUMMARY OF CONTRACT FOR COST-PLUS-A-FIXED-FEE ARCHITECT-ENGINEER SERVICES [1]

ARCHITECT-ENGINEER: J. B. CONVERSE & CO., INC. AND A. C. POLK, AN INDIVIDUAL, OF MOBILE AND BIRMINGHAM, ALABAMA, RESPECTIVELY

Amount fixed fee: $49,100.00.

Estimated cost of construction project: $8,491,592.00.

Type of construction project: Construction of an Ordnance Depot, including necessary buildings, temporary structures, utilities and appurtenances thereto.

Location: Calhoun County, Alabama, near Anniston, Alabama.

Type of service: Architectural-Engineering. (For construction of the project.)

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. QM 7415 P1-3211 A 0540.067-N, the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 11th day of January 1941.

Description of the work. The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: construction of an ordnance depot, including necessary buildings, temporary structures, utilities and appurtenances thereto at Calhoun County, near Anniston, Alabama, and estimated to cost $8,491,592.00.

Data to be furnished by the Government. The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions outside utilities and equipment as may be essential for the preparation of preliminary sketches and the development of final drawings and specifications.

Fixed-fee and reimbursement of expenditures. In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following:

A fixed fee in the amount of forty nine thousand one hundred and no/100 dollars ($49,100.00) which shall constitute complete compensation for the Architect-Engineer's services.

Reimbursement for the following expenditures:

The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract, subject to the provisions of paragraph 1 b. (2) above.

Method of payment.—Payments shall be made on vouchers approved by the contracting officer on standard forms, as soon as practicable after the submission of statements, with original certified payrolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed-fee earned.

All drawings, specifications, and blue prints are to become the property of the Government on completion of payments.

Changes in scope of project. The Contracting Officer may at any time by a written order, make changes in the scope of the work contemplated by this contract.

Termination for cause or for convenience of the Government. The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

Public No. 703—76th Congress, Approved July 2, 1940.

Public No. 309—76th Congress, Approved August 7, 1939.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-1913; Filed, March 15, 1941; 10:02 a. m.]

[Contract No. W 6942 qm-4; O. I. No. 4-41]

SUMMARY OF COST-PLUS-A-FIXED-FEE CONSTRUCTION CONTRACT [1]

CONTRACTOR: DUNN CONSTRUCTION COMPANY, INC., 203 CHAMBER OF COMMERCE BUILDING, BIRMINGHAM, ALABAMA, AND JOHN S. HODGSON AND COMPANY, BOX 1807, N. PERRY AND PRINCE STREETS, MONTGOMERY, ALABAMA

Fixed-fee: $254,440.00.

Contract for: Construction of an ordnance depot, including necessary buildings, temporary structures, utilities and appurtenances thereto.

Place: Calhoun County, Alabama, near Anniston, Alabama.

Estimated cost of project: $8,237,152.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same: QM 7415 P1-3211 A 0540.068-N

This contract, entered into this 27th day of January 1941.

Statement of work. The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work: construction of an ordnance depot, including necessary buildings, temporary structures, utilities and appurtenances thereto in Calhoun County, Alabama, near Anniston, Alabama.

It is estimated that the total cost of the construction work covered by this contract will be approximately eight million two hundred thirty-seven thousand one hundred fifty-two dollars ($8,237,152.00) exclusive of the Contractor's fee.

In consideration for his undertaking under this contract the Contractor shall receive the following:

(a) Reimbursement for expenditures as provided in article II.

(b) Rental for Contractor's equipment as provided in article II.

(c) A fixed fee in the amount of two hundred fifty-four thousand four hundred forty dollars ($254,440.00) which shall constitute complete compensation for the Contractor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment and supplies for which the Contractor shall be entitled to be reimbursed under article II, shall vest in the Government.

Payments—Reimbursement for cost. The Government will currently reimburse the Contractor for expenditures made in accordance with article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

Rental for Contractor's equipment. Rental as provided in article II for such construction plant or parts thereof as the Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

Payment of the fixed-fee. The fixed-fee prescribed in article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer. Upon completion of the work and its final acceptance, any unpaid balance of the fee shall be paid to the Contractor.

Termination of contract by Government. Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it

[1] Approved by the Under Secretary of War, January 31, 1941.

[1] Approved by the Under Secretary of War, February 14, 1941.

advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

This contract is authorized by the following law:

Public No. 703–76th Congress, Approved July 2, 1940.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41–1914; Filed, March 15, 1941; 10:02 a. m.]

[Contract No. W 6134 qm–1; O. I. No. 1–41]

SUMMARY OF COST - PLUS - A - FIXED - FEE CONTRACT[1] FOR ARCHITECT - ENGINEER SERVICES

ARCHITECT-ENGINEER: BENHAM ENGINEERING CO., 400–2 FIDELITY BUILDING, OKLAHOMA CITY, OKLAHOMA

Amount fixed fee: $30,923.00.

Estimated cost of construction project: $4,398,360.00.

Type of construction project: Construction of a complete Tent Camp and Cantonment, including necessary buildings, temporary structures, railroads, roads and walks, utilities and appurtenances thereto.

Location: Camp Area #6, near Alexandria, Louisiana.

Type of service: Architectural-Engineering.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to, Procurement Authority No. QM 8057 P3–3211 A0002.003–02, the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 9th day of September, 1940.

Description of the work. The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: Construction of a complete tent camp and cantonment, including necessary buildings, temporary structures, railroads, roads and walks, utilities and appurtenances thereto at Camp Area #6, Louisiana and estimated to cost $4,398,360.00.

Data to be furnished by the Government. The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions, outside utilities and equipment as may be essential for the preparation of preliminary sketches and the development of final drawings and specifications.

Fixed-fee and reimbursement of expenditures. In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following:

A fixed fee in the amount of thirty thousand nine hundred twenty three and no/100 dollars ($30,923.00) which shall constitute complete compensation for the Architect-Engineer's services.

Reimbursement for the following expenditures:

The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract, subject to the provisions of paragraph 1b. (2) above.

Method of payment. Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified payrolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed fee earned.

All drawings, specifications, and blue prints are to become the property of the Government on completion of payments.

Changes in scope of project. The Contracting Officer may at any time, by a written order, make changes in the scope of the work contemplated by this contract.

Termination for cause or for convenience of the Government. The Government may terminate this contract at any time and for any cause by a notice in writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

Public No. 611, 76th Congress, Approved June 13, 1940.

Public No. 703, 76th Congress, Approved July 2, 1940.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41–1931; Filed, March 17, 1941; 10:00 a. m.]

[Contract No. W 6134 qm–3; O. I. No. 3–41]

SUMMARY OF COST-PLUS-A-FIXED-FEE CONTRACT[1] FOR ARCHITECT-ENGINEER SERVICES

ARCHITECT-ENGINEER: E. T. ARCHER & COMPANY, 609 NEW ENGLAND BLDG., KANSAS CITY, MISSOURI

Amount fixed fee: $30,923.00.

Estimated cost of construction project: $4,398,360.00.

Type of construction project: Construction of a complete Tent Camp, including the necessary buildings, temporary structures, utilities and appurtenances thereto.

Location: near Alexandria, Louisiana, Camp Area #18.

by, are for the purpose set forth in, and

Type of service: Architect-Engineering.

The supplies and services to be obtained by this instrument are authorized are chargeable to, Procurement Authority No. QM 8056 P3–3211 A 0002.003–02 the available balance of which is sufficient to cover the cost of same.

This contract, entered into this 10th day of September, 1940.

Description of the works. The Architect-Engineer shall perform all the necessary services provided under this contract for the following described project: Construction of a complete Tent Camp, including necessary buildings, temporary structures, utilities and appurtenances thereto at Camp Area #18, near Alexandria, Louisiana and estimated to cost $4,398,360.00.

Data to be furnished by the Government. The Government shall furnish the Architect-Engineer available schedules of preliminary data, layout sketches, and other information respecting sites, topography, soil conditions, outside utilities and equipment as may be essential for the preparation of preliminary sketches and the development of final drawings and specifications.

Fixed-fee and reimbursement of expenditures. In consideration for his undertakings under the contract, the Architect-Engineer shall be paid the following:

A fixed fee in the amount of thirty thousand nine hundred twenty-three and no/100 dollars ($30,923.00) which shall constitute complete compensation for the Architect-Engineer's services.

Reimbursement for the following expenditures.

The actual cost of expenditures made by the Architect-Engineer under the provisions of Article IV and Article VII of this contract, subject to the provisions of paragraph 1 b. (2) above.

Method of payment. Payments shall be made on vouchers approved by the Contracting Officer on standard forms, as soon as practicable after the submission of statements, with original certified payrolls, receipted bills for all expenses including materials, supplies and equipment, and all other supporting data and the amount of the Architect-Engineer's fixed fee earned.

All drawings, specifications, and blue prints are to become the property of the Government on completion of payments.

Changes in scope of project. The Contracting Officer may at any time, by a written order, make changes in the scope of the work contemplated by this contract.

Termination for cause or for convenience of the Government. The Government may terminate this contract at any time and for any cause by a notice in

[1] Approved by the Assistant Secretary of War September 13, 1940.

[1] Approved by the Assistant Secretary of War September 13, 1940.

writing from the Contracting Officer to the Architect-Engineer.

This contract is authorized by the following laws:

Public No. 611—76th Congress, approved June 13, 1940

Public No. 703—76th Congress, approved July 2, 1940.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-1933; Filed, March 17, 1941; 10:00 a. m.]

[Contract No. W 6134 qm-2; O. I. No. 2-41]

SUMMARY OF COST-PLUS-A-FIXED-FEE CONSTRUCTION CONTRACT [1]

CONTRACTOR: W. HORACE WILLIAMS COMPANY, 833 HOWARD AVENUE, NEW ORLEANS, LOUISIANA

Fixed-fee: $155,705.00.

Contract for: the construction of a complete tent camp and cantonment, including the necessary buildings, temporary structures, railroads, roads and walks, utilities and appurtenances thereto.

Place: Area 18, near Alexandria, Louisiana.

Estimated cost of project: $4,242,655.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following procurement authorities, the available balances of which are sufficient to cover the cost of the same: QM 8004 P-3-3211 A0002.003-02 (Emergency Fund for the President).

This contract, entered into this 16th day of September, 1940.

Statement of work. The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work: Construction of a complete tent camp and cantonment, including necessary buildings, structures, railroads and walks, utilities and appurtenances thereto at Area 18, near Alexandria, Louisiana.

It is estimated that the total cost of the construction work covered by this contract will be approximately four million two hundred forty-two thousand six hundred fifty-five dollars ($4,242,655.00), exclusive of the Contractor's fee.

In consideration of his undertaking under this contract the Contractor shall receive the following:

(a) Reimbursement for expenditures as provided in article II.

[1] Approved by The Assistant Secretary of War September 19, 1940.

(b) Rental for Contractor's equipment as provided in article II.

(c) A fixed fee in the amount of one hundred fifty-five thousand seven hundred five dollars ($155,705.00) which shall constitute complete compensation for the Contractor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment and supplies, for which the Contractor shall be entitled to be reimbursed under article II, shall vest in the Government.

Payments—Reimbursement for cost. The Government will currently reimburse the Contractor for expenditures made in accordance with article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

Rental for Contractor's equipment. Rental as provided in article II for such construction plant or parts thereof as the Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

Payment of the fixed-fee. The fixed-fee prescribed in article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer. Upon completion of the work and its final acceptance, any unpaid balance of the fee shall be paid to the Contractor.

Termination of contract by Government. Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

This contract is authorized by the following laws:

Public No. 611—76th Congress, Approved June 13, 1940.

Public No. 703—76th Congress, Approved July 2, 1940.

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-1934; Filed, March 17, 1941; 10:01 a. m.]

[Contract No. W 6134 qm-4; O. I. No. 4-41]

SUMMARY OF COST-PLUS-A-FIXED-FEE CONSTRUCTION CONTRACT [1]

CONTRACTORS: S & W CONSTRUCTION COMPANY, 983 SHRINE BUILDING, MEMPHIS, TENN.; H. N. RODGERS & SONS COMPANY, 62 SOUTH FRONT STREET, MEMPHIS, TENN.; AND FORCUM-JAMES COMPANY, CLS, 628 DERMON BUILDING, MEMPHIS, TENN.

Fixed-fee: $155,705.00.

Contract for: The construction of a complete tent camp, including the necessary buildings, temporary structures, utilities and appurtenances thereto.

Place: National Guard Camp, in Area 6, Kisatchie National Forest, near Alexandria, Louisiana.

Estimated cost of project, $4,242,655.00.

The supplies and services to be obtained by this instrument are authorized by, are for the purpose set forth in, and are chargeable to the following Procurement Authorities, the available balances of which are sufficient to cover the cost of the same:

QM 8003 P3—3211 A 0002.003-02.
QM 7008 P1—3211 A1738-N.

This contract, entered into this 17th day of September 1940.

Statement of work. The Contractor shall, in the shortest possible time, furnish the labor, materials, tools, machinery, equipment, facilities, supplies not furnished by the Government, and services, and do all things necessary for the completion of the following work: Construction of a complete Tent Camp, including necessary buildings, temporary structures, utilities and appurtenances thereto at National Guard Camp, in Area 6, Kisatchie National Forest, near Alexandria, Louisiana.

It is estimated that the total cost of the construction work covered by this contract will be approximately four million two hundred forty two thousand six hundred fifty five dollars ($4,242,655.00), exclusive of the Contractor's fee.

In consideration for his undertaking under this contract the Contractor shall receive the following:

[1] Approved by the Assistant Secretary of War September 20, 1940.

(a) Reimbursement for expenditures as provided in article II.

(b) Rental for Contractor's equipment as provided in article II.

(c) A fixed fee in the amount of one hundred fifty five thousand seven hundred five dollars ($155,705.00) which shall constitute complete compensation for the Contractor's services, including profit and all general overhead expenses.

The Contracting Officer may, at any time, by a written order and without notice to the sureties, make changes in or additions to the drawings and specifications, issue additional instructions, require additional work, or direct the omission of work covered by the contract.

The title to all work, completed or in the course of construction, shall be in the Government. Likewise, upon delivery at the site of the work or at an approved storage site and upon inspection and acceptance in writing by the Contracting Officer, title to all materials, tools, machinery, equipment and supplies, for which the Contractor shall be entitled to be reimbursed under article II, shall vest in the Government.

Payments—Reimbursement for cost. The Government will currently reimburse the Contractor for expenditures made in accordance with article II upon certification to and verification by the Contracting Officer of the original signed pay rolls for labor, the original paid invoices for materials, or other original papers. Generally, reimbursement will be made weekly but may be made at more frequent intervals if the conditions so warrant.

Rental for contractor's equipment. Rental as provided in article II for such construction plant or parts thereof as the Contractor may own and furnish shall be paid monthly upon presentation of proper vouchers.

Payment of the fixed-fee. The fixed-fee prescribed in article I shall be compensation in full for the services of the Contractor, including profit and all general overhead expenses. Ninety percent (90%) of said fixed-fee shall be paid as it accrues, in monthly installments based upon the percentage of the completion of the work as determined from estimates made and approved by the Contracting Officer. Upon completion of the work and its final acceptance, any unpaid balance of the fee shall be paid to the Contractor.

Termination of contract by Government. Should the Contractor at any time refuse, neglect, or fail to prosecute the work with promptness and diligence, or default in the performance of any of the agreements herein contained, or should conditions arise which make it advisable or necessary in the interest of the Government to cease work under this contract, the Government may terminate this contract by a notice in writing from the Contracting Officer to the Contractor.

This contract is authorized by the following law: Act of July 2, 1940 (Public No. 703—76th Congress).

FRANK W. BULLOCK,
Major, Signal Corps,
Assistant to the Director of Purchases and Contracts.

[F. R. Doc. 41-1932; Filed, March 17, 1941; 10:00 a. m.]

NAVY DEPARTMENT.

Bureau of Ordnance.

[NOd-1776]

SUMMARY OF CONTRACT FOR EQUIPMENT AND FACILITIES

CONTRACTOR: CARNEGIE-ILLINOIS STEEL CORPORATION, PITTSBURGH, PENNSYLVANIA

MARCH 13, 1941.

Under date of March 10, 1941, the Navy Department entered into a contract with the Carnegie-Illinois Steel Corporation for the acquisition and installation in the Contractor's plant at Munhall, Pennsylvania, of additional equipment and facilities to enable the Contractor to produce armor and special treatment steel at the rate required to expedite the National Defense Program. The cost of the additional equipment and facilities is estimated at not to exceed $1,310,000.00, and the contract requires that they be acquired and installed at actual cost without profit or fee to the Contractor. The Contractor is to retain title to the additional equipment and facilities but is to be reimbursed by the Government for their actual cost in sixty (60) monthly payments commencing upon completion of the acquisition and installation. At such time as the additional equipment and facilities are no longer necessary for the purposes of the National Defense, the Contractor has the option of purchasing them at their then appraised value or of turning them over to the Government. If the Contractor elects to turn them over to the Government, the Government then has an option to require the Contractor to maintain them at the Government's expense for a period of five (5) years or such lesser period as may be determined by the Secretary of the Navy.

W. H. P. BLANDY,
Rear Admiral, U. S. N.,
Chief of the Bureau of Ordnance.

[F. R. Doc. 41-1900; Filed, March 14, 1941; 1:01 p. m.]

[NOd 1777]

SUMMARY OF CONTRACT FOR EQUIPMENT AND FACILITIES

CONTRACTOR: CARNEGIE-ILLINOIS STEEL CORPORATION, PITTSBURGH, PENNSYLVANIA

MARCH 13, 1941.

Under date of March 10, 1941, the Navy Department entered into a contract with the Carnegie-Illinois Steel Corporation for the acquisition and installation in the Contractor's plant at Mingo Junction, Ohio, of additional equipment and facilities to enable the Contractor to produce armor and special treatment steel at the rate required to expedite the National Defense Program. The cost of the additional equipment and facilities is estimated at not to exceed $1,997,000.00, and the contract requires that they be acquired and installed at actual cost without profit or fee to the Contractor. The Contractor is to retain title to the additional equipment and facilities but is to be reimbursed by the Government for their actual cost in sixty (60) monthly payments commencing upon completion of the acquisition and installation. At such time as the additional equipment and facilities are no longer necessary for the purposes of the National Defense, the Contractor has the option of purchasing them at their then appraised value or of turning them over to the Government. If the Contractor elects to turn them over to the Government, the Government then has an option to require the Contractor to maintain them at the Government's expense for a period of five (5) years or such lesser period as may be determined by the Secretary of the Navy.

W. H. P. BLANDY,
Rear Admiral, U. S. N.,
Chief of the Bureau of Ordnance.

[F. R. Doc. 41-1901; Filed, March 14, 1941; 1:01 p. m.]

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. A-75]

PETITION OF PERSHING FUEL COMPANY CONCERNING MINIMUM PRICES ESTABLISHED FOR THE LARGER SIZES OF COALS FOR RAIL DELIVERY IN MARKET AREAS 60 AND 63

NOTICE OF AND ORDER FOR HEARING ON AMENDED PETITION

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the Pershing Fuel Company, and by Order of the Director dated October 25, 1940, this proceeding having been consolidated with the proceedings in Docket Nos. A-69 et al., and a consolidated hearing having been held in Des Moines, Iowa, on December 4, 1940, pursuant to the Order of the Director; and

At such consolidated hearing the Pershing Fuel Company having requested leave to amend its original petition in the above-entitled matter, and the Examiner, duly authorized by Order of the Director to conduct such hearing, having thereupon continued the hearing insofar as it concerned the Pershing Fuel Company and referred to the Director the application made by the Pershing

Fuel Company for leave to amend its original petition therein, and such an amended petition having been duly filed;

Now, therefore, it is ordered, That a further hearing in the above-entitled matter under the applicable provisions of the Act and the Rules of the Division be held on March 19, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, Central Fire Station, 9th & Mulberry Streets, Des Moines, Iowa.

It is further ordered, That Edward J. Hayes or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the prayer of the original petitioner for reductions in the effective minimum prices of its coals in Size Groups 1 through 7, inclusive, for delivery by rail to retail dealers in Market Areas 60 and 63, as follows: 47¢ per ton in Size Groups 1–4, 22¢ per ton in Size Group 5, and 49¢ per ton in Size Groups 6 and 7. Petitioner alleges that such reductions in the effective minimum prices for these coals are necessary in order to permit competition with coals shipped by truck directly from the producer to domestic consumers in Market Areas 60 and 63.

Dated: March 13, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1920; Filed, March 15, 1941; 11:31 a. m.]

[Docket No. A–369]

PETITION OF DISTRICT BOARD 14 TO AMEND THE PRICE SCHEDULES FOR DISTRICT NO. 14 BY THE ESTABLISHMENT OF SIZE GROUPS 24 AND 25

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on March 26, 1941, at 2 o'clock in the afternoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That W. A. Shipman or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before March 20, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of District Board 14 to amend the price schedules for District No. 14 by the establishment of Size Group 24, including double-screened coals with a maximum top size of 6" and a bottom size not larger than 1¼" with price classifications "A" to "Q" and minimum prices of 410 to 250 cents per net ton, both inclusive, and Size Group 25, including all sizes of coal having a maximum top size of 6", with no coal removed, with price classification "A" and a minimum price of 235 cents per net ton, for shipment to St. Louis, Missouri, in Market Area 40.

Dated: March 13, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1918; Filed, March 15, 1941; 11:30 a. m.]

[Docket No. A–530]

PROPOSED REVISION OF THE EFFECTIVE MINIMUM PRICES APPLICABLE TO SALES OR DELIVERIES OF COAL BY BERWIND FUEL COMPANY, CARNEGIE DOCK AND FUEL COMPANY, AND CERTAIN OTHER DISTRIBUTORS OR CODE MEMBERS, AND THEIR SUBSIDIARIES OF AFFILIATES, OPERATING DOCKS LOCATED ON LAKE SUPERIOR AND LAKE MICHIGAN, SO AS TO PERMIT THE PERFORMANCE OF CERTAIN OUTSTANDING CONTRACTS IN ACCORDANCE WITH THEIR TERMS

ORDER GRANTING TEMPORARY RELIEF AS TO CERTAIN RAILROAD FUEL CONTRACTS OF CARNEGIE DOCK AND FUEL COMPANY, NORTHERN COAL AND DOCK COMPANY, AND PHILADELPHIA AND READING COAL AND IRON COMPANY

By Orders previously entered in the above-entitled matter, on February 26 and March 4, 1941, temporary relief was granted as to certain railroad fuel contracts of Berwind Fuel Company, Carnegie Dock and Fuel Company, and Inland Coal and Dock Company. The same considerations stated in the Memorandum Opinion entered with the Order of February 26, 1941, are likewise applicable to certain railroad fuel contracts of Carnegie Dock and Fuel Company, Northern Coal and Dock Company, and Philadelphia and Reading Coal and Iron Company—which contracts are hereinafter described—as to which temporary relief has likewise been requested. Accordingly, the Memorandum Opinion issued in connection with the Order of February 26, 1941, granting temporary relief to

Berwind Fuel Company is adopted as to the contracts set forth below as to which temporary relief should also be granted for the reasons set forth in that Opinion.

Now, therefore, it is ordered, That temporary relief, pending final disposition of this proceeding, is granted to Carnegie Fuel and Dock Company, Northern Coal and Dock Company, and Philadelphia and Reading Coal and Iron Company, as follows: Commencing forthwith, the applicable effective minimum prices are revised to the extent necessary to permit the coals subject to the following contracts to be delivered at the prices specified in said contracts:

1. A contract between Carnegie Dock and Fuel Company and Great Northern Railway Company, entered into on April 23, 1940, for 9,000 tons of "Island Creek" 2" N/S at a price of $4.25 per ton, of which 8,681.10 tons were undelivered as of October 1, 1940;

2. A contract between Carnegie Dock and Fuel Company and Minneapolis, St. Paul and Saulte Ste. Marie Railway, entered into on May 8, 1940, for 2,000 tons of "Island Creek" 2" slack, at a price of $4.25 per ton, of which 1,619.50 tons were undelivered as of October 1, 1940;

3. A contract between Northern Coal and Dock Company and Great Northern Railway Company, entered into on April 27, 1940, for 6,000 tons of "Van" nut, pea and slack, at a price of $4.25 per ton, of which 5,357.60 tons were undelivered as of October 1, 1940;

4. A contract between Philadelphia and Reading Coal and Iron Company and Chicago, St. Paul, Minneapolis and Omaha Railway Company, entered into on June 23, 1940, for 1500 tons of "Hazard" screenings, at a price of $4.25 per ton, of which 1,284 tons were undelivered as of October 1, 1940;

5. A contract between Philadelphia and Reading Coal and Iron Company and Great Northern Railway Company, entered into on May 3, 1940, for 4,000–5,000 tons of "Nordic" screenings, at a price of $4.25 per ton, pursuant to which no deliveries had as yet been made on October 1, 1940;

Provided, however, That such revisions shall apply only as to coal stored on the docks of Carnegie Dock and Fuel Company, Northern Coal and Dock Company, and Philadelphia and Reading Coal and Iron Company, prior to October 1, 1940, and delivered, or to be delivered, pursuant to said contracts, after that date.

Notice is hereby given that applications to stay, terminate or modify the temporary relief herein granted may be filed pursuant to the Rules and Regulations Governing Practice and Procedure in Proceedings Instituted Pursuant to section 4 II (d) of the Bituminous Coal Act of 1937.

Nothing contained herein should be deemed to constitute a ruling or an expression of the Director's views concerning the propriety of the effective minimum prices for lake cargo coals for use as railroad locomotive fuel.

Dated: March 13, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1924; Filed, March 15, 1941; 11:32 a. m.]

[Docket No. A–533]

PETITION OF BENEDICT AND SHERMAN, FOR REVISION OF EFFECTIVE MINIMUM PRICES OF CERTAIN GRADES OF COAL PRODUCED AT THEIR STRIP MINE IN DISTRICT NO. 4, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER FOR DISMISSAL OF PETITION

By his Order of January 24, 1941, the Director having scheduled the above-entitled matter for hearing on February 15, 1941, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C., and it appearing that no representative of the original petitioner was present when this matter was called for hearing, and it having been moved that the above-entitled matter be dismissed, without prejudice,

Now, therefore, it is ordered, That the petition in the above-entitled matter be, and it hereby is, dismissed, without prejudice.

Dated: March 13, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1922; Filed, March 15, 1941; 11:31 a. m.]

[Docket No. A–603]

PETITION OF COSCO GAS COAL COMPANY, A PRODUCER IN DISTRICT NO. 2, FOR REVISION OF THE EFFECTIVE MINIMUM PRICES OF ¾" SLACK COAL, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER OF DISMISSAL

The original petitioner in the above-entitled matter having requested that the petition be withdrawn, and there being no opposition to such request,

It is ordered, That the original petition in Docket No. A–603 be dismissed.

Dated: March 13, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1923; Filed, March 15, 1941; 11:32 a. m.]

[Docket No. A–638]

PETITION OF T. B. M. COAL COMPANY, ET AL., CODE MEMBERS IN DISTRICT NO. 15, TO REDUCE THE EFFECTIVE MINIMUM PRICES FOR THEIR COALS IN SIZE GROUPS 2, 3, 4, AND 6

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named parties;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on March 25, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street, NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That W. A. Shipman or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before March 21, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the joint petition of T. B. M. Coal Company, Mine Index No. 100, Mike Woods (Burning Coal Co.), Mine Index No. 1157, M. S. & A. Coal Co. (B. H. McMullen), Mine Index No. 148, Butler Coal Co. (Ed. Butler), Mine Index No. 417, Frank Betinne & Dan Riaggizzi, Mine Index No. 916, and Plainview Coal Company (James Van Meter), Mine Index No. 1097, code members in District No. 15, to reduce the effective minimum prices

for their coals in Size Groups, 2, 3, 4, and 6.

Dated: March 13, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1919; Filed, March 15, 1941; 11:30 a. m.]

[Docket No. A–727]

PETITION OF DISTRICT BOARD 10, REQUESTING REVISION OF THE EFFECTIVE MINIMUM PRICES ESTABLISHED FOR CERTAIN TRUCK MINES IN DISTRICT NO. 10

NOTICE OF AND ORDER FOR HEARING ON TEMPORARY AND PERMANENT RELIEF

An original petition, requesting temporary and permanent relief, having been duly filed with this Division by the above-named party, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937;

It is ordered, That a hearing on the prayers for temporary and permanent relief in the above-entitled matter be held, under the applicable provisions of said Act, and the rules and regulations of the Division, on April 2, 1941, at 10 o'clock a. m. (eastern standard time) in a hearing room of the Bituminous Coal Division, 734 Fifteenth Street, N. W., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

It is further ordered, Thah Edward J. Hayes or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law. *Provided, however,* That the prayers for temporary relief shall be reserved within the jurisdiction of the Director for any such action as may be deemed by him to be appropriate at any time during the course of the proceedings in the above-entitled matter.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become parties herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before March 27, 1941.

The matter concerned herewith is in regard to the petition of District Board 10, requesting revision of the price classifications and minimum prices established for the coals of Coal City Coal Co., Mine Index No. 669; Harry Dial, Mine Index No. 519; and Stephenson Brothers (Clarence L. Stephenson), Mine Index No. 1272.

All persons are hereby notified that the hearing in the above-entitled matter and any orders therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petition, petitions of interveners, or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petition.

Dated: March 13, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1921; Filed, March 15, 1941; 11:31 a. m.]

[Docket No. 1602–FD]

IN THE MATTER OF CORYELL COAL COMPANY, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

A complaint dated February 24, 1941, pursuant to the provisions of sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, having been duly filed on February 27, 1941, by Domestic Coal Company (George C. Watson), a code member, complainant, with the Bituminous Coal Division alleging willful violation by the defendant of the Bituminous Coal Code or rules and regulations thereunder;

It is ordered, That a hearing in respect to the subject matter of such complaint be held on April 21, 1941, at 10 a. m., at a hearing room of the Bitumious Coal Division at the Grand Jury Room, U. S. Court, Denver, Colorado.

It is further ordered, That W. A. Shipman or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant and to all other parties herein and to all persons and entities having an interest in such proceeding. Any person or entity eligible under § 301.123 of the Rules and Regulations Governing Practice and Procedure Before the Bituminous Coal Division in Proceedings Instituted Pursuant to sections 4 II (j) and 5 (b) of the Bituminous Coal Act of 1937, may file a petition for intervention not later than five (5) days before the date herein set for hearing on the complaint.

Notice is hereby given, that answer to the complaint must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within twenty (20) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the allegations of the complaint herein and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified, that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged in the complaint herein, other matters incidental and related thereto, whether raised by amendment of the complaint, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

The matter concerned herewith is in regard to the complaint filed by said complainant, alleging willful violation by the above-named defendant of the Bituminous Coal Code or rules and regulations thereunder as follows: by selling or delivering 172.43 tons of 3'' lump coal on October 3, November 3, December 5 and 12, 1940 and January 21, 1941, produced at the Coryell Mine, Hayden, Colorado to East Denver Coal Company located at Denver, Colorado shipped via DSL and CBQ to Your Oil Company, Ft. Morgan, Colorado as follows: Car No. RI 44458 at $3.85 per ton f. o. b. the mine, Car No. DSL 53041 at $3.85 per ton f. o. b. the mine, Car No. RI 152940 at $3.60 per ton f.o.b. the mine, Car No. DSL 63143 at $3.60 per ton f. o. b. the mine, and Car No. CBQ 95656 at $3.60 per ton f. o. b. the mine, thereby giving prices of 40¢ and 65¢ per ton less than the prescribed minimum prices. Further details of these transactions are described in the complaint.

Dated: March 13, 1941

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1917; Filed, March 15, 1941; 11:30 a. m.]

[Docket Nos. A–137, A–208, A–251]

PETITIONS OF DISTRICT BOARD 14 FOR THE ESTABLISHMENT OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES NOT HERETOFORE CLASSIFIED AND PRICED AND FOR THE REVISION OF CERTAIN PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR THE COALS OF CERTAIN MINES HERETOFORE CLASSIFIED AND PRICED, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

NOTICE OF POSTPONEMENT OF HEARING

Good cause appearing therefor,

It is ordered, That the hearing in the above-entitled matters scheduled to be held on March 28, 1941, be, and it hereby is, postponed until 10 o'clock in the forenoon on March 31, 1941, in a hearing room of the Bituminous Coal Division to be designated by the Chief of the Records Section, Room 502, 734 Fifteenth Street NW., Washington, D. C.

Dated: March 14, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1938; Filed, March 17, 1941; 11:18 a. m.]

[Docket No. A–417]

PETITION OF H. M. FORSYTH, A PRODUCER IN DISTRICT NO. 1, FOR REVISION OF THE EFFECTIVE MINIMUM PRICES IN SIZE GROUPS 1–5, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER OF DISMISSAL

The original petitioner in the above-entitled matter having failed to appear at the time and place designated for hearing upon said petition and having advanced no reason for such failure to appear and not having requested that the hearing be postponed,

It is ordered, That the original petition in Docket No. A–417 be dismissed for failure of the petitioner to appear at the hearing.

Dated: March 14, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1941; Filed, March 17, 1941; 11:18 a. m.]

[Docket No. A–701]

PETITION OF DISTRICT BOARD 7 TO REDUCE THE PRICE CLASSIFICATIONS AND MINIMUM PRICES ESTABLISHED FOR THE COALS OF SIZE GROUPS 2, 3, AND 4 OF LILLYBROOK COAL COMPANY IN MINE INDEX NO. 94 AND OF C. H. MEAD COAL COMPANY IN MINE INDEX NO. 117

MEMORANDUM OPINION AND ORDER CONCERNING TEMPORARY RELIEF

This proceeding was instituted upon an original petition filed with this Division by the Bituminous Coal Producers Board for District No. 7 on February 25, 1941, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937. The petition prays for reclassification of the coals of Mine Index No. 94 of Lillybrook Coal Company and of Mine Index No. 117 of C. H. Mead Coal Company, code members in District No. 7, from "D" to "F" in Size Group 2, from "C" to "E" in Size Group 3 from "A" to "D" in Size Group 4. That reclassification would effect a decrease in the base minimum prices for these coals in the amount of 10 cents per ton in Size Group 2, 20 cents per ton in Size Group 3 and 20 cents per ton in Size Group 4, whereby their classifications and minimum prices would be identical with those effective for the coals of Mine Index No. 207 of the Gulf Smokeless Coal Company, a code member in the same district. The petition included a prayer for temporary relief in the premises.

An intervening petition was filed by Carter Coal Company, a code member with mines in District 7, wherein that company objected to consideration at this time of the matters raised in the original petition, on the ground that District Board No. 7, the petitioner, is preparing a proposal for a reclassification of all of the domestic sizes of the coals of the code members in the district, and consideration of such questions in the interim would only constitute a waste of time of the persons concerned. It requested therein that no hearing be held on the petition pending further action by the District Board in connection with its general proposal.

Buckeye Coal and Coke Company, a code member operating Mine Index No. 35 in District 7, filed an intervening petition representing that its coals in the size groups involved in the original petition are similar in quality to those of Mine Index Nos. 94, 117 and 207, have the same classifications and minimum prices in those sizes as do Mine Index Nos. 94 and 117, and compete in the same markets with all three of those mines. It averred that the purposes of the Bituminous Coal Act of 1937 would be better served by raising the price classifications in those sizes for the coals of Mine Index No. 207, to the present classifications of the coals of Mine Index Nos. 35, 94, and 117, rather than by reductions in classifications as requested by the petitioner. It requested, however, that should the relief requested by the petitioner be granted for Mine Index Nos. 94 and 117 the same relief be granted for its Mine Index No. 35.

Following the Order of the Director and upon due notice given to all interested persons, a hearing in the matter was held on March 10, 1941, at the offices of the Division in Washington, D. C. At that hearing the petitioner and the intervener, Buckeye Coal and Coke Company, were represented. The Lillybrook Coal Company and the C. H. Mead Coal Company did not appear in their individual capacities but certain of their officers appeared and testified in favor of the relief sought for them by the petitioner. Carter Coal Company did not appear and the request in its intervening petition for the postponement of a hearing was denied by the Trial Examiner there presiding. That action is hereby confirmed by the Director.

From the evidence introduced at the hearing it appears that Mine Index Nos. 35, 94, 117 and 207 are all in the Pocahontas No. 3 seam of Subdistrict No. 5 of District 7; that their coals in the subject sizes are quite similar in their acceptability to consumers and are approximately of the same market value, and compete in the same markets; that although generally marketed for domestic use, their desirability for such consumption is greatly limited by reason of their excessive friability and high ash content.

It further appears from the evidence that due to the minimum prices established for their coals, the Lillybrook Coal Company and the C. H. Mead Coal Company have been able to sell, since October 1, 1940, only a small percentage of the tonnage in Size Groups 2, 3 and 4 which they sold during the corresponding period in the years 1939 and 1940; that they have been forced to crush most of their coals into screenings which contain a relatively high ash content; that because of its inability to maintain more than a small portion of its previous inland shipments, Mine Index No. 94 has been forced to ship a substantial part of its tonnage for export purpose, at a substantial loss in its realization; that inability to move its coals in Size Groups 2, 3 and 4 at the minimum prices has resulted in repeated serious blocking at Mine Index No. 117 of the C. H. Mead Coal Company and in a substantial curtailment of its operating time; and that intervener Buckeye Coal and Coke Company has had difficulty in moving its coals in those size groups.

The evidence discloses that since October 1, 1940 the shipments of the Size Groups 2, 3 and 4 coals of Mine Index Nos. 94 and 117 have decreased to such a substantial extent as to prejudice their continued operation. No cause therefor is suggested other than the minimum prices established for them. No substantial evidence was offered to justify the existing level of their classifications or minimum prices. District Board No. 7, upon whose recommendation they had been established, offered evidence indicating that its recommendation had been erroneous and that the granting of the requested revisions was proper and necessary. The evidence shows, moreover, that such a revision, if granted, must be extended to the coals of Mine Index No. 35. It clearly appears, from the recent operations and the present situations of the subject mines, that good cause exists for the granting of the temporary relief requested by the petitioner and for its extension to the coals of Mine Index No. 35.

On the other hand, it is not clearly established that the entry of a final order granting the requested relief will

tend ultimately to effectuate the purposes of the Act. The petitioner's evidence to the effect that it intends within two or three months to propose a general reclassification of all the domestic sizes of the coals in the district but that it is not now ready to make that proposal leaves serious doubts as to the propriety of now entering herein any such final order.

After full consideration of the evidence the Director is of the opinion that a reasonable showing of necessity has been made for the extension of the temporary relief prayed for in the original petition to Mine Index Nos. 35, 94 and 117; that an adequate showing has been made of actual and impending injury in the event that the temporary relief requested is not granted as to the coals of Mine Index Nos. 35, 94 and 117; and that an adequate showing has been made that the granting of such relief will not unduly prejudice other interested persons.

In view of the foregoing circumstances and the petitioner's assurance that it is not yet ready to make its intended proposal of general price reclassifications in the domestic sizes for coals of the code members in this district, the Director is of the opinion that the temporary relief prayed for by the original petitioner should be granted.

Now, therefore, it is ordered, That, pending final disposition of this matter, temporary relief be and it hereby is granted as follows: Commencing forthwith, the Schedule of Effective Minimum Prices for District No. 7, For All Shipments Except Truck, is amended by revision of the price classifications for the coals of Mine Index Nos. 35, 94 and 117 from "D" to "F" in Size Group 2, from "C" to "E" in Size Group 3 and from "A" to "D" in Size Group 4: *Provided, however,* That this relief may be terminated, by an order of the Director hereafter to be made and entered, upon his own motion, or upon application of any interested party, in the event the petitioner fails to file with the Division, on or before the dates specified, verified statements, which shall become a part of the record of the above-entitled proceeding for all purposes, as follows:

1. A statement on April 1, 1941 showing the relative size stability (friability), slack indices, dry ash content and price classifications of the coals in Size Groups 2, 3 and 4 of the several mines in the Pocahontas No. 3 seam in Subdistrict No. 5 of District No. 7; like data as to the coals of a representative mine in each of the other seams in Subdistrict No. 5; and like data as to the coals of a representative mine in each of the several seams in all other subdistricts of District No. 7.

2. A statement on April 7, 1941 showing the monthly tonnage shipments, by size groups, from October 1940 to March 1941, inclusive, with comparative figures for the same months of the preceding year, of all of the mines in the Pocahontas No. 3 seam in Subdistrict No. 5 of District No. 7, and specifying whether such shipments were for inland destinations, domestic tidewater destinations, or for export and the number of days per month during which said mines operated.

3. Statements on May 7, 1941, and on the seventh day of each succeeding month showing for the preceding month the same data and information, except for the comparative figures for the preceding year, specified in the last preceding paragraph hereof.

Notice is hereby given that motions to stay, terminate, or modify the temporary relief granted in this order may be made pursuant to the Rules and Regulations of the Bituminous Coal Division for proceedings under section 4 II (d) of the Bituminous Coal Act of 1937.

Dated: March 14, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-1940; Filed, March 17, 1941; 11:18 a. m.]

[Docket No. A-715]

PETITION OF THE CONSUMERS' COUNSEL DIVISION SEEKING FREE ALONGSIDE PRICES FROM DISTRICT 8 FOR THE PROCTER AND GAMBLE COMPANY, CINCINNATI, OHIO, IN MARKET AREA NO. 19

NOTICE OF AND ORDER FOR HEARING

A petition, pursuant to the Bituminous Coal Act of 1937, having been duly filed with this Division by the above-named party;

It is ordered, That a hearing in the above-entitled matter under the applicable provisions of said Act and the rules of the Division be held on April 7, 1941, at 10 o'clock in the forenoon of that day, at a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in room 502 will advise as to the room where such hearing will be held.

It is further ordered, That Travis Williams or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become a party herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before April 2, 1941.

All persons are hereby notified that the hearing in the above-entitled matter and any orders entered therein, may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment to the petition, petitions of interveners or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of this petition.

The matter concerned herewith is in regard to the petition of the Consumers' Counsel Division seeking free alongside prices from District 8 for the Procter and Gamble Company, Cincinnati, Ohio, in Market Area No. 19.

Dated: March 14, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41-1936; Filed, March 17, 1941; 11:17 a. m.]

[Docket No. A-725]

PETITION OF DISTRICT BOARD 11 FOR THE ESTABLISHMENT OF SEASONAL DISCOUNTS TO APPLY ON THE SALES OF DISTRICT NO. 11 COALS DURING CERTAIN SPECIFIED MONTHS, FOR SHIPMENT TO ALL MARKET AREAS

NOTICE OF AND ORDER FOR HEARING ON TEMPORARY AND PERMANENT RELIEF

An original petition, requesting temporary and permanent relief, having been duly filed with this Division by the above-named party, pursuant to section 4 II (d) of the Bituminous Coal Act of 1937;

It is ordered, That a hearing on the prayers for temporary and permanent relief in the above-entitled matter be held, under the applicable provisions of said Act, and the rules and regulations of the Division, on April 3, 1941, at 10 o'clock a. m. (eastern standard time) in a hearing room of the Bituminous Coal Division, 734 Fifteenth Street NW., Washington, D. C. On such day the Chief of the Records Section in Room 502 will advise as to the room in which such hearing will be held.

It is further ordered, That D. C. McCurtain or any other officer or officers of the Division duly designated for that purpose shall preside at the hearing in such matter. The officers so designated to preside at such hearing are hereby authorized to conduct said hearing, to administer oaths and affirmations,

examine witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law: *Provided, however,* That the prayers for temporary relief shall be reserved within the jurisdiction of the Director for any such action as may be deemed by him to be appropriate at any time during the course of the proceedings in the above-entitled matter.

Notice of such hearing is hereby given to all parties herein and to persons or entities having an interest in these proceedings and eligible to become parties herein. Any person desiring to be admitted as a party to this proceeding may file a petition of intervention in accordance with the rules and regulations of the Bituminous Coal Division for proceedings instituted pursuant to section 4 II (d) of the Act, setting forth the facts on the basis of which the relief in the original petition is supported or opposed or on the basis of which other relief is sought. Such petitions of intervention shall be filed with the Bituminous Coal Division on or before March 28, 1941.

The matter concerned herewith is in regard to the petition of District Board 11, requesting the establishment of seasonal discounts to apply on the sales of District No. 11 coals during the months of May, June, July, and August, for shipment to all market areas.

All persons are hereby notified that the hearing in the above-entitled matter and any orders therein may concern, in addition to the matters specifically alleged in the petition, other matters necessarily incidental and related thereto, which may be raised by amendment of the original petition, petitions of interveners, or otherwise, or which may be necessary corollaries to the relief, if any, granted on the basis of said original petition.

Dated: March 14, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1937; Filed, March 17, 1941; 11:17 a. m.]

[Docket No. 1606–FD]

IN THE MATTER OF LAWRENCE PAUL (GLENN COAL CO.), REGISTERED DISTRIBUTOR, REGISTRATION NO. 3515, DEFENDANT

NOTICE OF AND ORDER FOR HEARING

The Bituminous Coal Division finds it necessary in the proper administration of the Bituminous Coal Act of 1937 (the Act) to determine whether or not Lawrence Paul (Glenn Coal Co.), registered distributor, Registration No. 3515, whose address is 350 West South Temple Street, Salt Lake City, Utah, has violated the code or regulations thereunder in any manner, including, but not in limitation thereof, the following:

Has violated the Rules and Regulations for the Registration of Distributors especially § 304.19 (c), and sections (d) (g) and (h) of the agreement of said Lawrence Paul (Glenn Coal Co.) as registered distributor, executed pursuant to Order of the National Bituminous Coal Commission, dated March 24, 1939, which has been adopted as an Order of the Bituminous Coal Division, by accepting from Hi-Heat Coal Company of Salt Lake City, Utah, code member, District No. 20, a distributor's discount of 12¢ per ton on two carloads of 1" slack coal produced at the Rains No. 2 Mine of said Hi-Heat Coal Company, Mine Index No. 17 as follows: Car No. DRG 40505, approximately 79,800 pounds, Invoice No. 1144, dated January 3, 1941; Car No. DRG 41171, approximately 96,500 pounds, Invoice No. 1316, dated January 15, 1941; both of which shipments were shipped to the retail yard of Eccles Canyon Coal Company, Salt Lake City, Utah, code member, District No. 20, and there re-sold at retail in less than cargo or railroad carload lots, said Lawrence Paul (Glenn Coal Co.) being employed during all of that time by said Eccles Canyon Coal Company, as manager of said retail yard, upon a stipulated monthly salary.

It is ordered, That a hearing pursuant to § 304.14 of the Rules and Regulations For the Registration of Distributors, to determine whether the registration of said distributor should be revoked or suspended, be held on April 23, 1941 at 10 a. m. at a hearing room of the Bituminous Coal Division at Room 234, Post Office Building, Salt Lake City, Utah.

It is further ordered, That W. A. Shipman or any other officer or officers of the Bituminous Coal Division designated by the Director thereof for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to conduct said hearing, to administer oaths and affirmations, examine witnesses, subpoena witnesses, compel their attendance, take evidence, require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, to continue said hearing from time to time, and to such places as he may direct by announcement at said hearing or any adjourned hearing or by subsequent notice, and to prepare and submit to the Director proposed findings of fact and conclusions and the recommendation of an appropriate order in the premises, and to perform all other duties in connection therewith authorized by law.

Notice of such hearing is hereby given to said defendant, and to all other parties herein and to all persons and entities having an interest in such proceeding.

Notice is hereby given that answer to the charges alleged herein must be filed with the Bituminous Coal Division at its Washington Office or with any one of the statistical bureaus of the Division, within ten (10) days after date of service thereof on the defendant; and that any defendant failing to file an answer within such period, unless the Director or the presiding officer shall otherwise order, shall be deemed to have admitted the alleged charges and to have consented to the entry of an appropriate order on the basis of the facts alleged.

All persons are hereby notified that the hearing in the above-entitled matter and orders entered therein may concern, in addition to the matters specifically alleged herein, other matters incidental and related thereto, whether raised by amendment, petition for intervention, or otherwise, and all persons are cautioned to be guided accordingly.

Dated: March 14, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1935; Filed, March 17, 1941; 11:17 a. m.]

[Docket No. A–429]

PETITION OF MCCLANE MINING COMPANY, A CODE MEMBER IN DISTRICT NO. 2, FOR REVISION OF PRICE CLASSIFICATIONS AND MINIMUM PRICES FOR COAL PRODUCED AT THE RICH HILL MINE IN SIZE GROUPS 1 THROUGH 9, PURSUANT TO SECTION 4 II (d) OF THE BITUMINOUS COAL ACT OF 1937

ORDER CONTINUING HEARING

Petitioner having moved that the hearing in the above-entitled matter, heretofore scheduled for March 17, 1941, be continued, and it appearing that there is no opposition thereto;

Now, therefore, it is ordered, That, the hearing in the above-entitled matter is continued until 10 o'clock in the forenoon of March 27, 1941, at the place heretofore designated and before the officers previously designated to preside.

Dated: March 15, 1941.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 41–1939; Filed, March 17, 1941; 11:18 a. m.]

DEPARTMENT OF AGRICULTURE.

Rural Electrification Administration.

[Administrative Order No. 563]

ALLOCATION OF FUNDS FOR LOANS

MARCH 11, 1941.

By virtue of the authority vested in me by the provisions of section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for a loan for the project and in the amount as set forth in the following schedule:

Project Designation:	*Amount*
Texas 1117G1 Upshur	$250,000

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 41–1929; Filed, March 15, 1941; 11:40 a. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938.

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Act are issued under § 522.14 of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) and the Determination and Order or Regulation listed below and published in the FEDERAL REGISTER as here stated.

Apparel Learner Regulations, September 7, 1940 (5 F.R. 3591).

Artificial Flowers and Feathers Learner Regulations, October 24, 1940 (5 F.R. 4203).

Glove Findings and Determination of February 20, 1940, as amended by Administrative Order of September 20, 1940 (5 F.R. 3748).

Hosiery Learner Regulations, September 4, 1940 (5 F.R. 3530).

Independent Telephone Learner Regulations, September 27, 1940 (5 F.R. 3829).

Knitted Wear Learner Regulations, October 10, 1940 (5 F.R. 3982).

Millinery Learner Regulations, Custom Made and Popular Priced, August 29, 1940 (5 F.R. 3392, 3393).

Textile Determination and Order, November 8, 1939 (4 F.R. 4531) as amended, April 27, 1940 (5 F.R. 1586).

Woolen Learner Regulations, October 30, 1940 (5 F.R. 4302).

The employment of learners under these Certificates is limited to the terms and conditions as to the occupations, learning periods, minimum wage rates, et cetera, specified in the Determination and Order or Regulation for the industry designated above and indicated opposite the employer's name. These Certificates become effective March 17, 1941. The Certificates may be cancelled in the manner provided in the Regulations and as indicated in the Certificates. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE

A & S Dress Company, 551 Hazle Street, Hazleton, Pennsylvania; Apparel; Dresses; 50 learners (75% of the applicable hourly minimum wage); July 21, 1941.

Baker Clothes, Inc., 26th and Reed Streets, Philadelphia, Pennsylvania; Apparel; Men's Clothing; 5 percent (75% of the applicable hourly minimum wage); March 17, 1942.

The Baker Manufacturing Company, 319½ East Main Street, Chanute, Kansas; Apparel; Ladies' & Children's Wash Frocks, Slacks, & Blouses; 32 learners (75% of the applicable hourly minimum wage); July 14, 1941.

Bardon of Hollywood, 714 South Los Angeles Street, Los Angeles, California; Apparel; Sport Shirts; 7 learners (75% of the applicable hourly minimum wage); July 14, 1941.

Bee Em Manufacturing Company, 141 North Eleventh Street, Philadelphia, Pennsylvania; Apparel; Boys' Juvenile Clothing; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Blue Bell-Globe Mfg. Company, 307 South Whitley Street, Columbia City, Indiana; Apparel; Overalls; 5 percent (75% of the applicable hourly minimum wage); March 17, 1942.

Blue Bell-Globe Mfg. Company, 307 South Whitley Street, Columbia City, Indiana; Apparel; Overalls; 70 learners (75% of the applicable hourly minimum wage); July 14, 1941.

Blue Bell-Globe Mfg. Company, Natchez, Mississippi; Apparel; Trousers & Shirts; 150 learners (75% of the applicable hourly minimum wage); August 18, 1941.

Borman Sportswear, Inc., 4th and Fulton Streets, Troy, New York; Apparel; Sportswear; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Brookhaven Mfg. Corporation, North Second Street, Brookhaven, Mississippi; Apparel; Trousers, Jackets, & Shirts; 10 percent (75% of the applicable hourly minimum wage); June 9, 1941.

Ephraim Brownstein, 141 North Eleventh Street, Philadelphia, Pennsylvania; Apparel; Army Uniforms; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

C. & C. Clothing Company, Inc., 16th & Reed Streets, Philadelphia, Pennsylvania; Apparel; Coats; 5 percent (75% of the applicable hourly minimum wage); March 17, 1942.

Samuel Coane, 232–248 North 11th Street, Philadelphia, Pennsylvania; Apparel; Pants, & Coats; 4 learners (75% of the applicable hourly minimum wage); June 30, 1941.

Harry Crass, 1421 Wallace Street, Philadelphia, Pennsylvania; Apparel; Men's Vests; 2 learners (75% of the applicable hourly minimum wage); March 17, 1942.

D'Orsay Cravats, Inc., 546 South Meridian Street, Indianapolis, Indiana; Apparel; Neckwear; 4 learners (75% of the applicable hourly minimum wage); March 17, 1942.

The Drybak Corporation, 67 Frederick Street, Binghamton, New York; Apparel; Coats, Trousers, & Breeches; 24 learners (75% of the applicable hourly minimum wage); July 14, 1941.

Eisenberg and Freedman, 445 North Darien Street, Philadelphia, Pennsylvania; Apparel; Men's Coats; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Benjamin Eskin, 26th and Dickinson Streets, Philadelphia, Pennsylvania; Apparel; Men's Vests; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

French Button Works, 51 North Ninth Street, Philadelphia, Pennsylvania; Apparel; Belts & Buttons; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Nathan N. Gorchov Company, 146 North 13th Street, Philadelphia, Pennsylvania; Apparel; Shirts; 10 learners (75% of the applicable hourly minimum wage); July 14, 1941.

Her Majesty Underwear Company, Leola, Pennsylvania; Apparel; Cotton & Rayon Slips; 20 learners (75% of the applicable hourly minimum wage); August 4, 1941.

Hillsdale Mfg. Company, Hillsdale, Michigan; Apparel; Sportswear, & Cotton Pants; 10 percent (75% of the applicable hourly minimum wage); June 9, 1941.

Kahhan Brothers, 1228 Cherry Street, Philadelphia, Pennsylvania; Apparel; Pants; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

William Kaslow, 269 South Ninth Street, Philadelphia, Pennsylvania; Apparel; Men's Vests; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Manistee Garment Company, River Street, Cadillac, Michigan; Apparel; Dresses; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Manistee Garment Company, River Street, Cadillac, Michigan; Apparel; Dresses; 10 learners (75% of the applicable hourly minimum wage); June 30, 1941.

The Matusaw Manufacturing Company, 40 North Sixth Street, Philadelphia, Pennsylvania; Apparel; Boys' Shorts, Knickers, Longes, & Suits; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Midland Garment Manufacturing Company, Inc., Central Avenue, Nebraska City, Nebraska; Apparel; Covert Work Pants & Cotton Dress Shirts; 10 learners (75% of the applicable hourly minimum wage); August 4, 1941.

Minersville Dress Manufacturing Company, Inc., 117 Front Street, Minersville, Pennsylvania; Apparel; Ladies' Dresses; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Modern Felling Shop, 26th & Reed Streets, Philadelphia, Pennsylvania; Apparel; Men's Clothing; 2 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Pennsylvania Apparel Company, 247–249 North Twelfth Street, Philadelphia, Pennsylvania; Apparel; Nurses', Maids' & Waitresses' Uniforms; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Perfection Garment Company, Inc., West John Street Extension, Martinsburg, West Virginia; Apparel; Dresses; 50 learners (75% of the applicable hourly minimum wage); August 4, 1941.

Practical Frocks, Inc., 1004 Elizabeth Avenue, Elizabeth, New Jersey; Apparel; Housecoats & Wash Dresses; 36 learners (75% of the applicable hourly minimum wage); July 14, 1941.

Quality Coat Shop, 30th and Reed Streets, Philadelphia, Pennsylvania; Apparel; Men's Clothing; 5 percent (75% of the applicable hourly minimum wage); March 17, 1942.

Reliance Mfg. Company, Church Street, Columbia, Mississippi; Apparel; Shirts & Pajamas; 10 percent (75% of the applicable hourly minimum wage); June 9, 1941.

Jacob Rosenfeld, 728 Cherry Street, Philadelphia, Pennsylvania; Apparel; Men's Vests; 5 learners (75% of the applicable hourly minimum wage); March 17, 1942.

Royal Chenille Manufacturing Company, Inc., 45 Fulton Street, Paterson, New Jersey; Apparel; Robes; 20 learners (75% of the applicable hourly minimum wage); June 30, 1941.

United Pants Mfg. Company, 26th and Reed Streets, Philadelphia, Pennsylvania; Apparel; Pants; 15 learners (75% of the applicable hourly minimum wage); July 14, 1941.

Eugene Usow Mfg. Company, 1315 West Congress Street, Chicago, Illinois; Apparel; Jackets, & Raincoats; 75 learners (75% of the applicable hourly minimum wage); June 30, 1941.

Waxahachie Garment Company, Waxahachie, Texas; Apparel; Shirts, & Pants; 80 learners (75% of the applicable hourly minimum wage); July 14, 1941.

Gloversville Knitting Company, Congress Street, Schenectady, New York; Glove; Knit Wool Gloves; 5 percent; March 17, 1942.

Montpelier Glove Company, Inc., 129 N. Main Street, Montpelier, Indiana; Glove; Work Gloves; 5 learners; March 17, 1942.

Sonn Gloves, Inc., 7 West 30th Street, New York, New York; Glove; Knit Fabric Gloves; 5 learners; July 17, 1941.

Superb Glove Company, Johnstown, New York; Glove; Leather Dress; 6 learners; July 14, 1941.

Woodland Hosiery Mills, Cheltenham, Pennsylvania; Hosiery; Full Fashioned; 1 learner; March 17, 1942.

Chatham Knit-Wear Company, Inc., Main Street, Chatham, Virginia; Knitted Wear; Boys' Sweaters; 20 learners; August 25, 1941.

Kickaway Garments Company, Inc., 529 South Franklin Street, Chicago, Illinois; Knitted Wear; Knitted Underwear; 5 learners; March 17, 1942.

Vogue Knitting Company, Inc., Second & Jefferson Streets, Womelsdorf, Pennsylvania; Knitted Wear; Knitted Underwear; 5 learners; March 17, 1942.

Lincoln Mutual Telephone Company, Greenfield, Iowa; Independent Branch of the Telephone Industry; to employ learners as indicated in the Telephone Order as commercial and switchboard operators until March 17, 1942.

Bangor Mills, Inc., 201 Pennsylvania Avenue, Bangor, Pennsylvania; Textile; Mosquito Netting; 15 learners; June 30, 1941.

Frank Associates, Inc., Cementon, Pennsylvania; Textile; Cotton, Rayon, & Silk Broad Goods; 3 percent; March 17, 1942.

Tennessee Tufting Company, 2404 Heiman Street, Nashville, Tennessee; Textile; Bathmats & Related Articles, Bedspreads; 20 learners; July 21, 1941.

Signed at Washington, D. C., this 17th day of March 1941.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 41-1958; Filed, March 17, 1941; 11:46 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Act are issued under section 14 thereof and § 522.5 (b) of the Regulations issued thereunder (August 16, 1940, 5 F.R. 2862) to the employers listed below effective March 17, 1941.

The employment of learners under these Certificates is limited to the terms and conditions as designated opposite the employer's name. These Certificates are issued upon the employers' representations that experienced workers for the learner occupations are not available for employment and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. The Certificates may be cancelled in the manner provided for in the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of these Certificates may seek a review or reconsideration thereof.

NAME AND ADDRESS OF FIRM, PRODUCT, NUMBER OF LEARNERS, LEARNING PERIOD, LEARNER WAGE, LEARNER OCCUPATIONS, EXPIRATION DATE

Evr-Klean Seat Pad Company, 2301 Madison Street, St. Louis, Missouri; Auto Seat Covers & Straw Matting pads; 15 learners; 240 hours for any one learner; 25 cents per hour; Stitching Machine Operator; May 12, 1941.

The Guild, Workshops, 1119 Nicollet Avenue, Minneapolis, Minnesota; Handicraft, principally novelties of peanuts and Corks; 10 learners; 4 weeks for any one learner; 25 cents per hour; Painting and Assembling Animal Figures; July 28, 1941.

Keep Klean Cover Company, Inc., 3417 Locust Street, St. Louis, Missouri; Seat Covers; 6 learners; 240 hours for any one learner; 25 cents per hour; Stitching Machine Operator; May 12, 1941.

M. Sharaf Company, 136 Harrison Avenue, Boston, Massachusetts; Mosquito Bars; 10 percent; 8 weeks for any one learner; 25 cents per hour; Sewing Machine Operators; June 9, 1941.

Signed at Washington, D. C., this 17th day of March 1941.

GUSTAV PECK,
Authorized Representative of the Administrator.

[F. R. Doc. 41-1959; Filed, March 17, 1941; 11:46 a. m.]

FEDERAL TRADE COMMISSION.

[Docket No. 4399]

IN THE MATTER OF HEROLIN COMPANY, INC., AND BERT H. RUBIN, INDIVIDUALLY AND AS PRESIDENT OF HEROLIN COMPANY, INC.

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of March, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 USCA, section 41),

It is ordered, That Arthur F. Thomas, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, April 21, 1941, at ten o'clock in the forenoon of the day (central standard time) in Room 324, Old Post Office Building, Atlanta, Georgia.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41-1903; Filed, March 15, 1941; 9:35 a. m.]

[Docket No. 4419]

IN THE MATTER OF CORA LEE WILEY, AN INDIVIDUAL

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 13th day of March, A. D. 1841.

This matter being at issue and ready for the taking of testimony, and pursuant

to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 USCA, section 41),

It is ordered, That Arthur F. Thomas, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Friday, April 18, 1941, at ten o'clock in the forenoon of that day (central standard time) in Room 324, Old Post Office Building, Atlanta, Georgia.

Upon completion of testimony for the Federal Trade Commission the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41–1904; Filed, March 15, 1941; 9:35 a. m.]

[Docket No. 4331]

IN THE MATTER OF L. B. PATTERSON, AN INDIVIDUAL TRADING AND DOING BUSINESS UNDER THE NAME WATCH-MY-TURN SIGNAL COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of March, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 USCA, section 41),

It is ordered, That William C. Reeves, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, March 24, 1941, at two o'clock in the afternoon of that day (central standard time) in Room 316, United States Court House, Des Moines, Iowa.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41–1905; Filed, March 15, 1941; 9:35 a. m.]

[Docket No. 4420]

IN THE MATTER OF LOUIS GORDON AND BEN GORDON, INDIVIDUALLY AND AS COPARTNERS TRADING AS BENGOR PRODUCTS COMPANY

ORDER APPOINTING TRIAL EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY.

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of March, A. D. 1941.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 USCA, section 41),

It is ordered, That Lewis C. Russell, a Trial Examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, That the taking of testimony in this proceeding begin on Monday, March 24, 1941, at ten o'clock in the forenoon of that day (eastern standard time), at the Hotel St. George, Brooklyn, New York.

Upon completion of testimony for the Federal Trade Commission, the Trial Examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The Trial Examiner will then close the case and make his report upon the evidence.

By the Commissioner.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 41–1906; Filed, March 15, 1941; 9:36 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70–212]

IN THE MATTER OF MISSISSIPPI PUBLIC SERVICE COMPANY

SUPPLEMENTAL ORDER WITH RESPECT TO PROPOSED MINOR CHANGES IN INDENTURE PROVISIONS

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 14th day of March, A. D. 1941.

The Commission having by order entered February 7, 1941 permitted a declaration to become effective pursuant to Rule U–8 regarding the issuance and sale of $500,000 principal amount of First Mortgage Bonds, Series A, 4%, due January 1, 1956, by Mississippi Public Service Company to Massachusetts Mutual Life Insurance Company; and

Mississippi Public Service Company having on March 12, 1941 filed an amendment in which it proposes to make certain minor modifications in the provisions of the indenture securing said Bonds, and having requested that the Commission enter an order permitting the making of said modifications in said indenture, and on the basis of said modifications reaffirming its previous order of February 7, 1941 permitting such declaration to become effective; and

It appearing to the Commission that said proposed modifications in said indenture are of a minor character, and are not inconsistent with the public interest and with the interest of investors and consumers:

It is hereby ordered, That said amendment be and is hereby made a part of the record herein; that the making of said modifications in said indenture as set forth in said amendment be and is hereby permitted; and that, on the basis of said proposed modifications in said indenture and on the basis of the record as so modified, said order of February 7, 1941 be and is hereby reaffirmed.

By the Commission, Commissioner Healy dissenting for the reasons set forth in his memorandum of April 1, 1940.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41–1956; Filed, March 17, 1941; 11:37 a. m.]

[File No. 70–257]

IN THE MATTER OF TEXAS CITIES GAS COMPANY LONE STAR GAS CORPORATION

ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 15th day of March, A. D. 1941.,

The above-named persons having filed a declaration pursuant to the Public Utility Holding Company Act of 1935, particularly Section 12 (d) thereof and Rule U-12D–1 thereunder, regarding the sale by Texas Cities Gas Company, a subsidiary of Lone Star Gas Corporation, a registered holding company, of a gas distribution system and related assets in and adjacent to the City of Brenham, Texas, to Texas Southwestern Gas Company; and

Said declaration having been filed on February 17, 1941 and notice of said filing having been duly given in the form and manner prescribed by Rule U-8 promulgated pursuant to said Act, and the Commission not having received a request for hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission deeming it appropriate in the public interest and in the interest of investors and consumers to permit the said declaration pursuant to Rule U-12D–1 to become effective;

It is hereby ordered, pursuant to said Rule U-8 and the applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-9 that the aforesaid declaration be and it here-

by is permitted to become effective forthwith.

By the Commission, Commissioner Healy dissenting for the reasons stated in his memorandum of April 1, 1940.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41–1955; Filed, March 17, 1941; 11:37 a. m.]

[File No. 70–262]

IN THE MATTER OF COMMUNITY NATURAL GAS COMPANY, TEXAS CITIES GAS COMPANY, LONE STAR GAS COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of March, A. D. 1941.

An application pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on March 21, 1941, at 10:00 o'clock in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Edward C. Johnson or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before March 20, 1941.

The matter concerned herewith is in regard to an application by the above-named parties for exemption from the provisions of section 9 (a) (1) of the Public Utility Holding Company Act of 1935 for the acquisition from independent gas appliance dealers of notes issued by customers of the applicants (including paper acquired during the year 1940), in amounts, not to exceed the following: Community Natural Gas Company, $175,000.00; Texas Cities Gas Company, $100,000.00; Lone Star Gas Company, $25,000.00.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41–1950; Filed, March 17, 1941; 11:36 a. m.]

[File No. 70–271]

IN THE MATTER OF THE OHIO POWER COMPANY AND AMERICAN GAS AND ELECTRIC COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 14th day of March, A. D. 1941.

Declarations and applications having been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named parties; and such declarations and applications concerning the following:

The Ohio Power Company (hereinafter referred to as "Ohio") proposes to issue and sell (1) $15,000,000 aggregate principal amount of its First Mortgage Bonds, % Series due 1971;[1] (2) 202,403 shares of its % Cumulative Preferred Stock,[2] par value $100, and (3) not in excess of 1,236,549 shares of its Common Stock, no par value.

The First Mortgage Bonds are to be sold to underwriters who will make a public offering of such securities.

The entire 202,403 shares of the % Cumulative Preferred Stock will be offered publicly by underwriters subject, however, in the case of 169,403 shares to an exchange offer to be made by Ohio to the holders, other than American Gas and Electric Company (hereinafter referred to as American Gas), of Old 6% Preferred on the following basis of exchange: For each share of Old 6% Preferred, one share of % Cumulative Preferred and a cash payment equal to the difference between the public offering price of the New Preferred and the redemption price of $110 per share of the Old 6% Preferred, plus accrued dividends to the date of redemption of the Old 6% Preferred less accrued dividends to the date of delivery on the New Preferred.

American Gas proposes to buy for $6,182,745.00 in cash not to exceed 1,236,549 shares of Common Stock of Ohio.

The proceeds of the sale of the new securities described above and the capital contribution described below are to be applied to the following:

(a) Redemption of the 169,403 shares of Old 6% Preferred of Ohio now in the hands of the public at the redemption price of $110 per share, but said shareholders will be offered the privilege of exchange described above.

(b) Purchase for cancellation of 28,662 shares of Old 6% Preferred of Ohio from American Gas for $2,882,746.00 (being American Gas' cost of such shares), plus an amount equal to accrued dividends on said shares to date of delivery thereof.

(c) Payment of $1,456,936.08 due American Gas by Ohio on open account advances.

(d) Deposit with the Corporate Trustee under the First Mortgage of Ohio under which its new First Mortgage Bonds, % Series due 1971, are to be issued, of $15,000,000.00 in cash which may be withdrawn, used or applied by Ohio for the purposes referred to in sections 31 and 32 of said First Mortgage.

The remainder of the net proceeds will be used to reimburse Ohio's treasury for amounts expended for the construction of additions to its property and will be available for general corporate purposes.

Prior to, or concurrently with, the issue and sale or exchange by Ohio of the new securities referred to above, American Gas will make a capital contribution to Ohio of $1,456,936.08.

Prior to, or concurrently with, the issue and sale or exchange by Ohio of the new securities referred to above, provision will be made for the redemption and/or purchase and cancellation of all of Ohio's Old 6% Preferred and, upon such redemption and/or purchase and cancellation, the charter of Ohio will be amended so that the authorized shares of Ohio will consists of 300,000 shares of the par value of $100 each of Cumulative Preferred Stock, issuable in series, and 5,000,000 shares of No Par Value Common Stock. Thereafter, upon the issuance of the % Cumulative Preferred Stock referred to above, the stated capital of Ohio will be increased by an amount equal to the par value of the % Cumulative Preferred Stock so issued plus $6,182,745.00 for the Common Stock so issued. The proposed charter amendment will alter the voting rights pertaining to the outstanding Common Stock of Ohio as therein set forth.

In connection with the redemption and/or purchase and cancellation of Ohio's Old 6% Preferred, Ohio may obtain a temporary loan of not to exceed $18,500,000.00. The note representing such temporary loan, if made, will be both issued and discharged on the same day on which the % Cumulative Preferred Stock referred to above is issued.

The application requests that the effective date thereof be accelerated to March 26, 1941.

[1] Interest rate on the bonds will be furnished by amendment.

[2] Dividend rate on the preferred stock will be furnished by amendment.

It appearing to the Commission that it is appropriate in the public interest and the interests of investors and consumers that a hearing be held with respect to said declarations and applications, and that said declarations shall not become effective or said applications be granted except pursuant to further order of the Commission, and that at the hearing there be considered whether the hereinabove described acts and transactions comply with the applicable provisions of the Public Utility Holding Company Act of 1935:

It is ordered, That a hearing thereon under the applicable provisions of said Act and the Rules of the Commission thereunder be held on March 24, 1941, at 10:00 a. m. at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration cause shall be shown why such declaration shall become effective;

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose, shall preside at the hearing in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

It is further ordered, That, without limiting the scope of issues presented by such applications and declarations, particular attention will be directed at said hearing to the following matters and questions:

1. Whether the proposed issue and sale of Bonds, Preferred Stock and Common Stock by The Ohio Power Company are solely for the purpose of financing the business of said Company and have been expressly authorized by the State Commission of the State in which it is organized and doing business;

2. Whether the securities to be issued are reasonably adapted to the security structures of The Ohio Power Company and its associate companies, and to the earning power of said Company;

3. Whether financing by the issue and sale of these particular securities is necessary and appropriate to the economical and efficient operation of the business of The Ohio Power Company.

4. Whether the fees, commissions, or other remunerations to be paid, directly or indirectly, are reasonable.

Notice of such hearing is hereby given to such declarants and applicants and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard in, or to be admitted as a party to, such proceeding shall file a notice to that effect with the Commission on or before March 22, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-1949; Filed, March 17, 1941; 11:36 a. m.]

[File No. 70-270]

IN THE MATTER OF GENERAL GAS & ELECTRIC CORPORATION

PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of March, A. D. 1941.

The above-named party, having filed a declaration pursuant to the Public Utility Holding Company Act of 1935, particularly section 12 (c) and Rule U-12C-2 thereunder, regarding the company's proposal to pay on March 15, 1941 its regular dividend aggregating $75,000 on its 60,000 shares outstanding $5 Prior Preferred Stock; said declaration having been filed on March 5, 1941 and an amendment having been filed thereto on March 14, 1941, said amendment providing that the dividend to be paid is to be limited to payment on the 32,110.9 shares publicly held, aggregating $40,139 (Denis J. Driscoll and Willard L. Thorp, Trustees of Associated Gas and Electric Corporation, holders of the remaining $5 Prior Preferred Stock of declarant have expressly agreed to waive receipt of dividend payment until further order by this Commission);

Notice of said filing having been duly given in the form and manner prescribed by Rule U-8 promulgated pursuant to said Act, and the Commission not having received a request for hearing with respect to said declaration within the period specified in said notice or otherwise, and not having ordered a hearing thereon;

General Gas & Electric Corporation having requested that said declaration as filed or as amended, become effective in sufficient time so that the dividend declaration may be made and the dividends paid on the due date, March 15, 1941;

The Commission deeming it appropriate in the public interest and the interest of investors and consumers to permit said declaration pursuant to Rule U-12C-2 to become effective;

It is hereby ordered, Pursuant to Rule U-8 and applicable provisions of said Act and subject to the terms and conditions prescribed in Rule U-9 that aforesaid declaration as amended be and hereby is permitted to become effective forthwith.

By the Commission, Commissioner Healy dissenting for the reasons set forth in his memorandum of April 1, 1940.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41-1953; Filed, March 17, 1941; 11:37 a. m.]

[File No. 31-84]

IN THE MATTER OF INTERNATIONAL UTILITIES CORPORATION AND DOMINION GAS AND ELECTRIC COMPANY

ORDER EXTENDING EXEMPTION FOR LIMITED PERIOD

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 14th day of March, A. D. 1941.

International Utilities Corporation and Dominion Gas and Electric Company having made application for exemption of Dominion Gas and Electric Company as a holding company pursuant to the provisions of section 3 (a) (5) of the Public Utility Holding Company Act of 1935, and said companies having also made application pursuant to section 3 (b) of said Act for an order exempting Dominion Gas and Electric Company and its subsidiary companies from the provisions of the Act applicable to them as subsidiary companies of International Utilities Corporation, a registered holding company; and

The Commission on the 13th day of April 1939, having made and entered an order exempting Dominion Gas and Electric Company from all those provisions of the Public Utility Holding Company Act of 1935 which would require it to register under said Act because of its directly or indirectly owning, controlling, or holding with power to vote 10% or more of the outstanding voting securities of Canadian Western Natural Gas, Light, Heat and Power Company, Limited; Northwestern Utilities, Limited; and Canadian Utilities, Limited; and also exempting Dominion Gas and Electric Company; Canadian Western Natural Gas, Light, Heat and Power Company, Limited; Northwestern Utilities, Limited; Canadian Utilities, Limited, and other non-utility subsidiaries to the extent specified from certain provisions of the Act applicable to them as subsidiary companies of International Utilities Corporation, a registered holding company;

The said order further providing that the exemptions therein granted shall expire December 31, 1940 without prejudice to the right of International Utilities Corporation and Dominion Gas and Electric Company to apply on behalf of themselves and the subsidiary companies of Dominion Gas and Electric Company for an extension of the time in which such order shall be effective; and

International Utilities Corporation and Dominion Gas and Electric Company having filed on the 10th day of December, 1940, an amendment to the application aforesaid requesting that the exemptions heretofore granted by the Commission be extended for a further period beyond December 31, 1940; and

The Commission having, by orders dated December 27, 1940 and January 25, 1941 extended the exemptions granted to Dominion Gas and Electric Company and its subsidiaries by order of the Commis-

sion dated April 13, 1939, so that the same shall expire on March 15, 1941; and

The Commission having requested certain additional information with respect to the aforesaid amended application, which information has not as yet been furnished, but deeming it not detrimental to the public interest or the interest of investors or consumers that the aforesaid exemptions be further extended for a limited additional period in view of the facts and circumstances above set forth;

It is therefore ordered, That the exemptions granted to Dominion Gas and Electric Company and its subsidiaries by order of this Commission dated April 13, 1939, as extended by orders of this Commission dated December 27, 1940 and January 25, 1941, be and the same hereby are further extended so that the same shall expire on March 31, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41–1951; Filed, March 17, 1941; 11:36 a. m.]

[File No. 31–417]

IN THE MATTER OF CONSOLIDATED ELECTRIC AND GAS COMPANY

ORDER TEMPORARILY EXTENDING EXEMPTION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 14th day of March, A. D. 1941.

Consolidated Electric and Gas Company, a registered holding company, having made application for an extension of the exemption, expiring December 31, 1940, granted certain of its foreign subsidiaries by order of the Commission dated February 2, 1939, pursuant to section 3 (b) of the Public Utility Holding Company Act of 1935, from certain provisions of said Act applicable to them as subsidiaries of a registered holding company, and the Commission having, by orders dated December 27, 1940 and January 25, 1941 extended such exemption until March 15, 1941.

The Commission having requested certain additional information with regard to the aforesaid application, which information has not as yet been furnished, but deeming it not detrimental to the public interest or the interest of investors or consumers to grant a further temporary extension of the time during which such order of exemption shall be effective;

It is therefore ordered, That the time during which such order of exemption shall be effective be, and hereby is, extended until May 1, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41–1954; Filed, March 17, 1941; 11:37 a. m.]

[File No. 1–1481]

IN THE MATTER OF SOUTHERN PACIFIC GOLDEN GATE COMPANY

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 14th day of March, A. D. 1941.

The San Francisco Stock Exchange, pursuant to section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2–1 (b) promulgated thereunder, having made application to strike from listing and registration the $1.50 Cumulative Class A Stock, No Par Value, and Class B Stock, No Par Value, of Southern Pacific Golden Gate Company; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, that said application be and the same is hereby granted, effective at the close of the trading session on March 29, 1941.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 41–1952; Filed, March 17, 1941 11:36 a. m.]